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THE TREACHERY and DISLOYALTY OF *PAPISTS* TO THEIR *SOVERAIGNES*, IN DOCTRINE AND PRACTISE.

Together with

The first part of the *SOVERAIGNE POWER* OF *PARLIAMENTS* and *KINGDOMES.*

Wherein the *Traiterous*, *Antimonarchicall Doctrines*, *Practises*, and *Attempts* of *Papists* upon the *Persons*, *Crownes*, *Prerogatives*, of their *Soveraignes*, with the dangerous designes, effects, and consequences, of their present *illegall Arming*, and accesse to the *Kings Person*, *Court*, *Army*, by meanes of *evill Counsellours*, are briefely discovered, related; The *Jurisdiction*, *Power*, *Priviledges*, claimed, exercised by our *Popish Parliaments*, *Prelates*, *Lords and Commons* in former ages, exactly paralleld with those now claimed by the *Lords and Commons* in this present *Parliament*; which are manifested, to be farre more loyall, dutifull, moderate; more consistent with, lesse invasive on, and destructive to the pretended Soveraigne *Power and Prerogative* of the *King*, then those of former ages. And the high Court of Parliament proved by pregnant Reasons, and Authorities, *To be the most Soveraigne Power of all other*, in this Kingdome, *in severall respects*; *And superiour to the King himselfe*: *who is not above, but subject to the Lawes*: Together with a punctuall Answer to the chiefe Calumnies, and grandest Objections, of *Royallists*, *Papists*, *Malignants*, *Delinquents*, against the *Parliaments* Power, and *Proceedings*; with other Particulars worthy Observation.

The Second Edition Enlarged.

By WILLIAM PRYNNE, *Utter-Barrester*, *of Lincolnes Inne.*

Isai. 24. 16, 17.

Woe unto me, the treacherous dealers have dealt treacherously: yea, the Treacherous dealers have dealt very treacherously: Feare, and the pit, and a snare are upon thee, O Inhabitant of the Earth.

Psalme 120. 5, 6.

My soule hath long dwelt with them, that are enemies unto peace. I labour for peace; but when I speake unto them thereof, they make them ready to Battle.

It is this second day of *May*, 1643. Ordered by the Committee of the House of Commons in Parliament for Printing, that this Booke, Intituled, *The Treachery and Disloyalty of Papists to their Soveraignes, &c.* with the Additions, be re-printed by *Michael Sparke*, senior.

John White.

Printed at London for *Michael Sparke*, *Senior.* 1643.

Jean Alvim

To the Reader.

Courteous Reader,

THE importunity of ſome Members of Parliament, hath induced me to enlarge the firſt Part of this Diſcourſe, with ſundry pertinent Additions, and to Re-print it in a greater Character, then before; yet diſtinct from the following part, for the eaſe, the benefit both of Stationer and Buyer. When I firſt entred upon this neceſſary publike Theame, my Primitive Intention was, to have Collected the chiefe Heads, Reaſons, Authorities of this and the enſuing Members, into one compendious Summulary, and ſo to publiſh them all together in an intire Briefe: But afterwards conſidering the extraordinary weight and conſequence of that Grand common Cauſe, both of Parliament and Kingdome, which I was to plead; the Novelty and Rarity of the Subject matter; the extraordinary Prejudice of the ignorant long-deluded world againſt it; the Potency, Policy, Multitude of learned Advocates (as well Divines as Lawyers) of the oppoſite Royall, and Malignant party; the inſufficiency and unſatisfactorineſſe of all late Printed Pleas for the Parliaments Intereſt, through defect of punctuall Precedents, and Authorities to backe their rationall Diſcourſes; and that a Summary ſlight debate of theſe important publicke differences, would give but ſmall ſatisfaction to the Adverſary, and rather prejudice than advance the Parliaments, Kingdomes Native Rights and Priviledges: I did thereupon enlarge my Meditations, my Collections, ſo farre forth, as ſtraites of Time, with other avocating Imployments, would permit, ſeconding all my Arguments, fortifying all my Reaſons, with ſuch Domeſticke, Foraine Precedents, and Authorities of all ſorts, as well Divine, as Humane, Politicall, Hiſtoricall, as Legall; as through Gods concurrence with, and bleſſing on my impotent endevours, may effectually convince the obſtinate wils, abundantly ſatisfie the moſt ſeduced, prejudicated Judgement, finally reſolve the moſt ſcrupulous Conſciences, and eternally ſilence the ignorant, the moſt malicious Tongues and Pennes of all Royalliſts, &c. Anti-parliamentary Malignants, who are not wilfully wedded to their long-eſpouſed Errors; or more enamored with ſordid Court flattery for private ſelfe-ends, then faireſt (though hated, ungainfull) verity, which aimes at nothing but the Publicke good.

For my part, I ſeriouſly proteſt before the great Judge of Heaven and Earth, that I have herein wittingly maintained nothing at all, but what my Judgement and Conſcience both (byaſſed with no ſiniſter ends, no private reſpects, ayming at nought elſe but the Glory of God, the ſettled weale, and Tranquillity, of our diſtracted, bleeding, dying Church, and State, the onely Motives, engaging me in this Service) informe me, to be a well-grounded, ancient, pregnant, (though lately over-clouded, undiſcovered, neglected, much-oppugned) Truth: and albeit moſt particulars therein debated, have for many yeares hitherto beene depoſed (that I ſay not ſtigmatized) for ſeditious, dangerous Antimonarchicall Paradoxes, if not worſe, by the generall Torrent of Court-Paraſites, Lawyers,

Religion, Nature, Law, Policy, *the various* Precedents, *and* Authorities *of former* ages, *and throughly digested without* prejudice *or* partiality; *they will appeare, yea, shine forth as most* necessary, profitable, loyall, State-securing, Peace-procuring verities: *yea, as the very* Nerves *and* sinewes *to* unite; *the* Pillars *to* support; *the* Bulwarkes *to* protect *both* Church *and* State, *against all invasions, of* heresie, *or* tyranny; *and to keepe all the Potent* Members *of them within their* Legall bounds. *Peruse it therefore with an* upright heart, *a* dis-ingaged Judgement, *an* unbiassed affection; *and when thou hast thus done, nought but* naked Truth resolve thy Conscience, *and* regulate *all thy* future Actions services *both towards thy* God, King, Country, *in such sort*; That *glory may dwell our land; that mercy and truth may meet together; righteousnesse and peace may kisse each other, *once more in our Nation*; and *God may now at last* speake peace unto his people and to his Saints: So Truth shall spring out of the Earth, and Righteousnesse shall looke downe from Heaven: Yea, the Lord shall give that which is good; and our Land shal yeeld her increase; Righteousnesse shall goe before him, and shall set us in the way of his steps. * And the worke of Righteousnesse shall be Peace; and the effect of righteousnesse, quietnesse and assurance for ever. And we (*being God people*) shall dwell in a peaceable habitation, and in sure dwellings, and in quiet resting places; *Yea, we* * shall beate our swords into Plow-shares, and our Speares into Pruning-hookes; Nation shall not lift up sword against Nation, neither shall they learne warre any more; But wee shall sit every man under his Vine and under his Figge-tree, and none shall make us afraid; *The effecting, the restoring of which sweet blessed Harmony of Peace and quietnesse throughout our kingdome, hath beene one principall end of this my* Labour, *which takes away the* pretended causes, *the* nourishing fewell *of our present* unnaturall contentions, *and* destructive bloody warres.

*Psal. 85.8,9, 10.

*Isa. 32.17,18

*Micah 4.3,4. Isay 2.4. Joel 3. 10.

Entertaine it therefore, with that Candidnesse and Ingenuity, as becomes the cordialest Endevours, of a reall unmercenary Philo-pater, *who hath freely done and suffered many thing and is still prest to doe and suffer all things, for his deerest Countries service, in an honourable lawfull Christian way; though he receive no other* Guerdon, *than the losse of all his earthly comforts, and a new addition to his former* sufferings. *That saying of* Symmachus *hath been encouragement enough to me,* * Saluti publicæ dicata industria crescit Merito, cum caret Præmio; *which I wish were more considered and better practised by some degenerous Mercenary spirits in these sad times; who receive great wages, and doe little worke; refusing to stirre either hand or foote upon any advantage, or necessary occasion to preserve their Native Country from desolation, before they have pursed up their undemerited pay; and yet even then perchance sit still: It is a basenesse not onely farre below * Christianity, but Humanity it selfe, for men (especially those of publicke place and abilities) to preferre their owne private ends, before the publicke safety; their particular gain, before the commonweale, when the whole kingdome lyeth at stake. But I hope Heroicke* English *Spirits, will learne more generous resolutions and Activity in times of such extremity; and that those whom it most concernes, will take timely notice, That sordid Mercenaries are the greatest, falsest Cowards; Christ himselfe resolving what poore, what ill service they will do in dayes of tryall,* Joh. 10.12,13. He that is an Hireling, seeth the Wolfe comming and leaveth the Sheepe, and FLEETH; and the Wolfe catcheth them and scattereth the Sheepe. The hireling fleeth, because he is an hireling, and careth not for the Sheepe. *He loves onely his* Wages, *not his* Charge, *his* Duty; *God discover and amend all such, or else speedily discard them: That so all ayming onely at the publique good and Tranquility; we may eft-soone procure, enjoy the same to our greatest consolation.*

*Apud Ambros. Epist. l 2. Ep. 2. Tom. 5. p. 97.

* Jer. 45.5.

Farewell.

The *Treachery* and *Disloyalty* of *Papists* to their *Soveraignes*, both in *Doctrine* and *Practise*.

WHen I seriously consider the memorable Preamble of 3. *Jac. ch.* 4. *That it is found by daily experience, that many of his Majesties Subjects who adhere in their hearts to the Popish Religion, by the infection drawne from thence, and by the wicked and divellish counsell of Jesuites, Seminaries, and other persons dangerous to the Church and State, are so farre perverted in the point of their loyalties and due obedience unto the Kings Majesty, and the Crowne of England, as they are ready to entertaine and execute any Treasonable Conspiracies and Practices, as evidently appeares by that more then barbarous and horrible attempt to have blowne up with Gunpowder, the King, Queene, Prince, Lords and Commons in the House of Parliament assembled, tending to the utter subversion of the whole State, lately undertaken by the instigation of Jesuites and Seminaries, and in advancement of their Religion by their Schollars taught and instructed by them for that purpose.* With the Statutes of 35. *Eliz. ch.* 2. *and* 3. *Jacob. ch.* 5. which Enact: *That all Popish Recusants shall be restrained to some certaine places of abode, and confined to their private houses in the Country, and not at any time after to passe or remove above five miles from thence, under paine of forfeiting all their Lands, Goods, and Chattels, during life. That none of them shall remaine within ten miles of the City of* London, *nor come into the Court or house where his Majesty, or Heire apparent to the Crowne of* England *shall be; nor have in their owne houses, or in the hands or possession of any other at their disposition, any Armour, Gunpowder, or Munition, of what kinde soever;* And all this, *for the better discovering and avoyding of such Trayterous, and most dangerous Conspiracies, Treasons, Practises, and attempts, as are daily devised, and practised against our most gracious Soveraignes Person, and the Commonweale, by rebellious and trayterous Papists.* And when I read in * two of King *James* his Proclamations: *That those adhering to the profession of the Church of* Rome, *are blindly led (together with the superstition of their Religion) both unto some points of Doctrine which * cannot consist with the loyalty of Subjects towards their Prince, and oft times unto direct actions of conspiracies, and conjurations against the State wherein they live, as hath most notoriously appeared by the late most horrible and almost incredible conjuration (grounded upon points of Doctrine in that Church held and mantained, and contrived, and practised with the privity and warrant of many of the principall Priests of that profession) to blow up our children and all the three States in Parliament assembled. And when we consider the course and claime of the Sea of* Rome, *we have no reason to imagine, that Princes of our Religion and profession can expect any assurance long to continue, unlesse it might be assented by the mediation of other Princes Christian, that some good course might be taken (by a generall Councell, free, and lawfully called) to plucke up those rootes of dangers and jealousies which arise for cause of Religion, as well betweene Princes and Princes, as betweene them and their Subjects; and*

* Dated. *Jan.* 10. 1606. and *Febr.* 22. 1603.
* Note this.

to make it manifeſt, that no State or Potentate, either doth or can challenge power to diſpoſe of earthly Kingdomes, or Monarchies, or to diſpence with Subjects obedience to their naturall Soveraignes; (Which was never yet attempted, much leſſe effected.) And in the Booke of *Thankſgiving* appointed for the fifth of *November*, (ſet forth by King *James*, and the *Parliaments* ſpeciall direction) this obſervable Prayer (ſomewhat altered by the now (*a*) *Arch-prelate of Canterbury* in the latter Editions to pleaſure his Friends the Papiſts) *To that end ſtrenghthen the hand of our gracious King, the Nobles and Magiſtrates of the Land, with Judgement and juſtice, to cut off theſe workers of iniquity* (the Papiſts) *whoſe Religion is rebellion, whoſe faith is faction, whoſe practiſe is murthering of Soules and bodies, and to roote them out of the confines of this Kingdome.* I cannot but ſtand amazed, yea utterly confounded in my ſelfe, at the Impudency and Treachery of thoſe pernicious Counſellors, who in affront of all theſe Lawes and premiſes, have iſſued out ſundry (*b*) *Commiſſions*, under his Majeſties hand and ſeale, to divers notorious Papiſts, not onely to furniſh themſelves with all ſorts of Armes and Munition; but likewiſe to meete together armed, and raiſe forces in the Field, to fight againſt the Parliament, Kingdome, and Proteſtant Religion, (even contrary to divers his Majeſties late Printed *Declarations*, and *Proteſtations*, to all his loving Subjects) advanced them to places of great truſt and command in his Majeſties ſeverall Armies; & procured them free acceſſe unto, if not places of note about his ſacred perſon, as if they were his loyalleſt Subjects, his ſureſt guard (as many now boldly ſtile them) and more to be confided in, then his beſt and greateſt Councell, *the Parliament*; whom they moſt execrably revile, as *Rebels, and Traytors*, the more colourably to raiſe an Army of Papiſts to cut their throats, and the throat of our Proteſtant Religion firſt (as they have already done in *Ireland*,) and then laſt of all his *Majeſties*, in caſe he refuſe to become the Popes ſworne vaſſall, or alter his Religion, which he hath oft proteſted (and we beleeve) he will never doe.

(*a*) Who confeſſeth & juſtifieth it, in his Speech in Star-chamber, *June* 14. 1637.

(*b*) See the Parliaments late Declaration.

But I deſire theſe il counſellors of the worſt edition, to informe his Majeſty, or any rational creature, how it is either probable, or poſſible, that an army of papiſts ſhould ſecure his royall perſon, Crowne, Dignity, or protect the Proteſtant Religion, the Parliament, or its Priviledges, to all which they have ſhewed themſelves moſt profeſſed enemies. We all know that Popiſh Recuſants (*c*) *obſtinately refuſe to take the Oath of Supremacy, or Allegiance* (*ſome of them that tooke it, having beene excommunicated by their Prieſts for a reward*) The ſumme of which Oath is, * *That they doe truly and ſincerely acknowledge and profeſſe; That the Pope hath no authority to depoſe the King, or to diſpoſe of any his Kingdomes, or to authorize any foraine Prince to invade his Countries, or to diſcharge any his Subjects from their Allegiance to his Majeſty, or to licence any of them to beare armes, or raiſe tumults againſt him, or to offer any violence or hurt to his royall Perſon, State, Government, Subjects. That notwithſtanding any Declaration, Excommunication, or deprivation made or granted by the Pope, or any Authority derived from him, againſt the King, his Heires, and Succeſſors, or any abſolution from their obedience, they will beare faith and true allegiance to them, and them protect to the uttermoſt of their power againſt all conſpiracies and attempts whatſoever againſt their Perſons, Crowne, and Dignity, by reaſon of any ſuch ſentence or Declaration, or otherwiſe. And that they doe from their hearts, abhorre, deteſt, abjure as impious and hereticall, this damnable Doctrine and poſition:* (profeſſedly maintained by Engliſh Papiſts, elſe why ſhould the Parliament preſcribe, and they abſolutely refuſe to take this Oath?) *that Princes excommunicated*

(*c*) See King *James* his Apology againſt *Bellarmin*, *Laurentius Byerlink*, *Opus Chro. p.* 319. *Deus & Rex.* The Lord *William Howards* Sonnes late Booke in Defence of Papiſts taking the Oath of Allegiance.

* 3 *Jac. c.* 4.

or

or deprived by the Pope, may be deposed or murdered by their Subjects, or any other whatsoever. Will those then who refuse to take this Oath, or abjure this King-deposing, King-killing Popish Doctrine; harbouring a *Seminary Priest* in their *Tents*, and a *Pope* in their *hearts*, prove a faithfull guard to his Majesties Person, Crowne, Kingdomes? Will those who so oft conspired the death, and attempted the murthers of Queene *Elizabeth*, and King *James*, onely because they were Protestants, *and Defenders of the Protestant Faith*, now cordially protect and assist King *Charles*, without attempting any thing against his Crowne or Person, who hath lately made and published so many *Protestations*, and *Declarations*, *that he will never imbrace, nor countenance Popery, but most resolutely Defend, and Advance the Protestant Religion*; and makes this one principall motive (how truely, he taketh Heaven and Earth to witnesse) of his present taking up of Armes? Will they (thinke you) spend their lives for King and Parliament, who but few yeares since lost their lives for attempting by a traine of Gunpowder to blow up both *King* and *Parliament*? Will those secure his Majesty in his Throne, now he is actually King of *England*, who would have murthered him in his *Cradle*, ere he was *Prince*, to forestall him of the Crowne of *England*? Can those prove really royall to his Majesty and his Royall Posterity, who would have blowne up him and all his Royall House at once, even long before he had posterity? In a word (if ancient presidents will not convince us) are those who for (*d*) *two yeares last past or more*, have beene labouring with might and maine to uncrowne his Majesty, and utterly extirpate the Protestant Religion by horrid conspiracies and force of Armes, in *Ireland*, and are now there acting the last Scene of this most barbarous bloudy Tragedy; likely to spend their dearest bloud in fighting for the preservation of his Majesties Crowne and the Protestant cause in *England*, if this onely be the reall quarrell, as is speciously pretended? Or will any of that Religion, who within these three yeares, have by force of Armes, both in *Catalonia*, *Portugall*, and elsewhere, revolted from, and cast off their allegiance to their owne most Catholicke King, to set up others of the same Religion in his Tribunall for their greater advantage; put to their helping hands to establish his Majesty (the most Protestant King) in his regall Throne, admit it were really, not fictitiously indangered to be shaken by the Parliament? Certainly, if the ground of this unnatural warre be such as these ill Counsellors pretend, they would never be so farre besotted as to make choyce of such unfitting Champions as Papists, for such a designe, who are very well knowne to be the greatest enemies and malignants of all others, both to King, Kingdome, Religion, Parliament, whose joynt destructions (what ever these ill Counsellors pretend) is questionlesse the onely thing really intended by the Popish party in this warre, as the proceedings in *Ireland*, the introducing of foraine, the raising of domestick Popish Forces, the disarming of Protestants, and Arming Papists with their Harnesse, clearely demonstrate to all whom prejudice hath not blinded.

(*d*) See Dr. *Jones* his Book of Examinations.

Now that I may evidence to these pernicious Counsellors, and all the world, how dangerous, how unsafe it is to his Majesty, to the Kingdome, to put Armes into Papists hands, and make use of them to protect the Kings person, or Crowne; I shall desire them to take notice both of the Papists traiterous Doctrine, and Practise, in these three particulars they maintaine.

First, *That the Pope by a meere divine right, is the sole and supreme Monarch of the*

whole world, and all the Kingdomes in it, to dispose of them at his pleasure, to whom and when he will, without giving any account of his actions. That all Emperours and Kings are but his vassals, deriving, and holding their Crownes from him by base unworthy services, worse then villenage; that they call, and repute them their Popes vassals, curs, packe-asses with Bels about their neckes, and use them like such, if they offend the Pope. For full proofe whereof out of their own Authours and practise, I shall refer them to Doctor (e) *Richard Crackenthorps* Booke, *Of the Popes temporall Monarchy*, chap. 1. p. 1. to 27. worthy any mans reading, to *John Bodins* Commonwealth, Lib. 1. cap. 9. Bishop *Jewels* view of a Seditious Bull, and Doctor *John Whites* Defence of the way to the true Church, chap. 10. p. 43.

(e) Dedicated to King *James*, printed at *London* 1621.

Secondly, *That the* Pope *alone without a Councell, may lawfully excommunicate, censure, depose both Emperours, Kings, and Princes; and dispose of their Crownes and Kingdomes unto others; That it is meete and necessary he should excommunicate and deprive all Kings, who are either Heretickes or Apostates (as they repute all protestant Princes) or oppressors of the Common-wealth: That as soone as such Princes are actually excommunicated, or notoriously knowne to be Heretickes or Apostates, their Subjects are* ipso facto *absolved from their government, and Oathes of Allegiance whereby they were bound unto them; and may, yea ought to take up Armes against them to deprive them of their Kingdomes.*

Thirdly, *That such heretically, tyrannically, oppressing Kings may be killed, poysoned, or slaine by open force of Armes, not onely lawfully, but with glory and commendations; That this is to be executed by Catholikes; and that it is not onely an heroicall, but meritorious act, worthy the highest Encomiums; and a Saint-ship in the Roman Calender.*

These two last propositions you may read abundantly proved by the words of Popish writers, and forty examples of severall Emperours, Kings and Princes, which Popes and Papists have excommunicated, deprived, violently assaulted and murthered, in (e) Doctor *John Whites defence* of the way to the true Church, chap. 6. pag. 14. to 22. and chap. 10. p. 43. 44. in his Sermon at *Pauls* Crosse, *March* 24. 1615. pag. 11. 12. in *Bishop Jewels view of a seditious Bull*, in *Bishop Bilsons* true difference of Christian Subjection, and unchristian rebellion, part. 3. throughout: *Aphorismi Doctrinæ Jesuitarum*: *King James* his Apology against *Bellarmine*, with his Answer *to Cardinall Perron*, and sundry printed Sermons, preached on the *fifth of November*, to which I shall referre the Reader. What security or protection then of his Majesties royall person, Crowne, Kingdomes, can now be expected from our popish Recusants, (infected with these trayterous principles, and branded with so many ancient, moderne, nay present Treasons and Rebellions against their Soveraignes) let the world and all wise men seriously judge; What faire quarter and brotherly assistance the Parliament, Protestants, Protestant Religion, Lawes and Liberties of the Subject are like to receive from this popish Army, the late *Gunpowder Treason*, the *Spanish Armado*, the *English and French booke of Martyrs*, the present proceedings in *Ireland*, *Yorkeshire*, and elsewhere, will resolve without dispute: And what peace and safety the Kingdome may expect in Church or State, whiles Popery and Papists have any armed power or being among us, (f) Doctor *John White* hath long since proclaimed at *Pauls* Crosse (and now we feele it by experience) in these words; *Papistry can stand neither with peace nor piety; the State therefore that would have these things, hath just cause to suppresse it. Touching our peace, it hath not beene violated in our State*

(e) Dedicated to King *James*, and printed at *London* 1624.

(f) In his Sermon there, Mar. 24. 1615. p. 43. 44.

these

those many yeares but by them, nor scarce in any Christian State, since Charles the Great his time, but the Pope and his ministers have had a hand in it.

All these ill advisers (to colour their *close* (g) *designe of re-establishing Popery, principally intended*) can alleadge for arming Papists against Law, is; That the Parliament hath trayterously invaded the Kings Prerogatives in a high degree; claimed a power and jurisdiction above his Majesty in sundry particulars; yea, usurped to its selfe a more exorbitant, unlimited, arbitrary authority in making Lawes, imposing taxes, &c. then any Parliaments challenged in former ages; to represse which insolences, and reduce the Parliament to its due limits, his Majesty is now necessitated to raise an Army, and pray in ayde of Papists, who in former ages have beene more moderate in their Parliaments, and are like to prove most cordiall and loyall to his Majesty in this service.

(g) See *Plain English. Object. Crimination. 1.*

To answer which pretence more fully, though it be for the maine, most palpably false, yet (by way of admission onely) I shall suppose it true, and with all possible brevity manifest; That Parliaments, Prelates, Peeres, Commons in times of Popery, have both claimed and exercised farre greater authority over our Kings and their Prerogatives, then this or any other Protestant Parliament hath done: Wherefore Papists of all others, have least cause to taxe the Parliaments proceedings, and those ill Counsellors and his Majesty small reason to imploy or trust Papists in this service. To descend to some particular heads of complaint, involved in this generall.

Object. 2.

First, it is objected, that the Parliament and some of its (*h*) *Advocates*, with its approbation, affirme; *that the Parliament being the representative Body of the whole Kingdome, is in some respects of greater power and authority then the King; who though he be* singulis major, *yet he is*, universis minor; which is contrary to *the Oath of Supremacy*, (wherein every Subject, * *doth utterly testifie and declare in his conscience, that the Kings highnesse is* THE ONELY SUPREAME GOVERNOUR *of this Realme, &c. as well in all Spirituall or Ecclesiasticall causes, as Temporall*:) and a kinde of unkinging his Majesty, no wayes to be indured.

Answ.

(*h*) The observations, a fuller answer to Dr. *Ferne*, with others. The Remonstrance of the Lords and Commons, *Novem. 2. 1642*

* 1 *Eliz. ch. 1.*

To which I answer, first, that if this Doctrine be either *Traytorous* or *Heretical*, the Papists were the first broachers of it long agoe; For *Hen. de Bracton* a famous English Lawyer, who writ in King *Henry* the third his reigne, *lib. 2. cap. 16. f. 34. a.* resolves thus, (*i*) *But the King hath a* SUPERIOUR, *to wit God: Also the Law, by which he is made a King*: *likewise* HIS COURT; *namely, the* EARLES AND BARONS; *because they are called Comites, as being* THE KINGS FELLOWES (*or companions;*) *and he who hath a fellow* (*or associate*) *hath a* MASTER: *and therefore if the King shall be without a bridle, that is, without Law,* THEY OUGHT TO IMPOSE A BRIDLE ON HIM, *unlesse they themselves with the King shall be without bridle; and then the Subject shall cry out and say, O Lord Jesus Christ doe thou binde their jawes with bit and bridle, &c.* A cleare resolution, That the Law, with the Earles and Barons assembled in Parliament, are above the King, and *ought to bridle him* when he exorbitates from the Law: which he also seconds in some sort, *lib. 3. cap. 9. f. 107.* This Doctrine was so authenticke in those dayes, and after times, that in the great *Councell of Basil. Anno* 1431. when this mighty question was debated; *Whether a Pope were above a generall Councell, or a Councell above him?* such a Councell was at last resolved to be above the Pope, upon

Answ.

(*i*) *Rex habet superiorem, Deum; &c. Item legem per quam factus est Rex. Item Curiam suam: viz. Comites, & Barones, quia Comites dicuntur quasi socii Regis, & qui habet socium habet magistrum: Et ideo si Rex fuerit sine frano, i. sine lege,* DEBENTEI FRÆNUM IMPONERE, *&c.*

this reaſon, among others (k) *The Pope is in the* [illegible] *King is in his Kingdome, and for a King to be of more authority then his Kingdome, were too abſurd*; Ergo, *Neither ought the Pope to be above the Church. In every well ordered Kingdome, it ought ſpecially to be deſired, that the whole Realme ſhould be of more authority then the King*; *which if it happened contrary, were not to be called a Kingdome, but a Tyranny. And like as oftentimes Kings, which doe wickedly governe the Common-wealth and expreſſe cruelty, are deprived of their Kingdomes*; *even ſo it is not to be doubted but that the Biſhop of* Rome *may be depoſed by the Church, that is to ſay, by the generall Councell. At the beginning* (*as* * Cicero *in his Offices ſaith*) *it is certaine there was a time when as the people lived without Kings. But afterwards when Lands and Poſſeſſions beganne to be divided according to the cuſtome of every Nation, then were Kings ordained for no other cauſes but onely to execute juſtice: for when at the beginning the common people were oppreſſed by rich and mighty men, they ranne by and by to ſome good and vertuous man, which ſhould defend the poore from injury, and ordaine Lawes, whereby the rich and poore might dwel together. But when as yet under the rule of Kings, the poore were oftentimes oppreſſed, Lawes were ordained and inſtituted, the which ſhould judge, neither for hatred nor favour, and give like eare unto the poore as rich: whereby we underſtand and know, not only the people, but alſo the King to be ſubject to the Law. For if we do ſee a King to contemne and deſpiſe the Lawes, violently rob and ſpoile his Subjects, deflower Virgins, diſhoneſt Matrons, and doe all things licentiouſly and temerariouſly, doe not the Nobles of the Kingdome aſſemble together, depoſing him from his Kingdome, ſet up another in his place, which ſhall ſweare to rule and governe uprightly, and be obedient unto the Lawes? Verily as reaſon doth perſwade, even ſo doth the uſe thereof alſo teach us: It ſeemeth alſo agreeable unto reaſon, that the ſame ſhould be done in the Church, that is, in the Councel, which is done in any Kingdome. And ſo is this ſufficiently apparent, that the Pope is ſubject unto the Councell*; Thus the Biſhop of *Burgen*, Ambaſſadour of *Spaine*, the Abbot of *Scotland*, and *Thomas de Corcellis*, a famous Divine, reaſoned in this Councell, which voted with them. Here we have a full reſolution of this great Councell (which the Papiſts call *a generall one*, *being* (*l*) *approved by the Greeke and Romane Emperours, and moſt Chriſtian Kings, and States, and ours among others*:) *That the Kingdome in Parliament Aſſembled, is above the King, as a Generall Councell is paramount the Pope*: which they manifeſt by five reaſons.

(k) *Fox Acts & Mon. Edi. 1641 Vol. 2, p. 8-9, 880. Æneas Sylvius de geſtis concilii Baſilienſis, & Surius conci. Tom. 4.*

* *Lib. 2.*

(l) *Surius, concil. tom. 4. p. 1. &c* And *Æneas Sylvius hiſt. Concil. Baſilienſis.*

Firſt, becauſe Kings were firſt created and inſtituted by their Kingdomes and people; not their Kingdomes and people by them.

Secondly, becauſe they were ordained onely for their Kingdomes and peoples ſervice and welfare, not their Kingdomes and people for them.

Thirdly, becauſe their Kingdomes and people, as they at firſt created, ſo they ſtill limit and confine their royall Juriſdiction by Laws, to which they are and ought to be ſubject.

Fourthly, becauſe they oblige them by a ſolemne Oath, to rule according, and to be obedient unto the Lawes.

Fifthly, becauſe they have power to depoſe them in caſe they contemne the Lawes, and violently rob and ſpoyle their Subjects.

This then being the Doctrine of Papiſts concerning the Power and Superiority of Parliaments, Peeres, and Kingdomes over their Kings, they have leaſt ground of all others, to taxe this Parliament or its Advocates, as guilty of Treaſon, and uſurpation upon the Crowne, for a more moderate claime then this amounts to, and

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the King or his ill Counsell no ground to expect more moderation and loyalty from Popish then Protestant Parliaments.

Secondly, I answer, that Popish Parliaments, Peeres, and Prelates have heretofore challenged and exercised a greater Jurisdiction over their Kings, then this Parliament, or any other, since the embracing of the Protestant Religion, ever claimed; and doe in a great measure disclaime.

For, first of all, they have challenged and executed a just and legall power (as they deemed it) to depose their Kings, for not governing according to Law; for following and protecting evill Counsellours, and Officers; oppressing their Subjects, and making warre against them. This is evident, not onely by the fore-mentioned passages of the Councell of *Basil*, with infinite presidents in foraine Empires and Kingdomes, which I pretermit, but by sundry domesticke examples of which I shall give you a short touch. (*m*) *Anno Dom.* 454. King *Vortigern*, when he had reigned sixe yeares space, for his negligence and evill Government (for which *Vodine* Arch-bishop of *London* told him, he *had endangered both his Soule and Crowne*) was deposed from his Crowne by his Subjects (the *Britaines*) generall consent, imprisoned, and his Sonne *Vortimer* chosen and crowned King in his stead; After whose untimely death (being poysoned by *Rowena*) *Vortigern* was againe restored by them to the Crowne, and at last for his notorious sinnes, by the just revenging hand of God, consumed to ashes by fire, kindled by *Aurelius*, and *Uter*, as Heavens ministers to execute its wrath. *Sigebert* (*n*) King of the *West-Saxons*, setting aside all Lawes and rules of true piety, wallowing in all sensuall pleasures, and using exactions and cruelties upon his Subjects, and slaying the Earle *Cumbra*, his most faithfull Counsellour, for admonishing him lovingly of his vicious life: the Peeres and Commons thereupon seeing their State and lives in danger, and their Lawes thus violated, assembled all together; and *provida omnium deliberatione*, rose up in Armes against him, deposed, and would acknowledge him no longer their Soveraigne, whereupon flying into the Woods, as his onely safeguard, and there wandring in the day like a forlorne person, and lodging in dens and caves by night, he was slaine by *Cumbra* his Swin-herd, in revenge of his Masters death, and *Kenwolfe* made King in his stead, *Anno Dom.* 756. (*o*) *Osred* King of *Northumberland*, for his ill government was expelled by his Subjects, and deprived of all Kingly Authority, *Anno* 789. So *Ethelred*, (the sonne of *Mollo*) his next successor, being revoked from exile and restored to the Crowne, of which he was formerly deprived, thereupon murthering divers of his Nobles and Subjects to secure his Crowne, so farre offended his Subjects thereby, that *An.* 794. they rose up in Armes against him, and slew him at *Cobre*. Thus (*n*) *An.* 758. the people of the kingdome of *Mercia* rising up against *Beornerd* their King, *because he governed the people not by just Lawes, but tyranny*, assembled all together, as well Nobles as ignoble; and *Offa*, a most valiant young man being their Captaine, they expelled him from the kingdome: which done, *unanimi omnium consensu*, by the unanimous consent of all, as well Clergy as People, they Crowned *Offa* King. (*o*) *Ceolwulfe* King of *Mercia*, *An.* 820. after one yeares Reigne, was for his misgovernment expulsed by his people, abandoning his Crowne and Country for the safety of his life.

(*p*) *Edwyn* King of *Mercia* and *Northumberland*, for his *Misgovernment, Tyranny, Oppression, following vaine, base, wicked Counsellors*, rejecting the advise of the *Wisest and*

(*m*) *Spe. hist. p.* 207, 266, 267. *Mat. West An.* 445. 454, &c. See *Hunt. hist. l.* 2. *p.* 320 *Fol. l.* 5. *c.* 1. *Fal. p.* 73. *Dan. p.* 8. *Hol. Graf. Vin. Speed hist. l.* 20 *c.* 11. & others.

(*n*) *Spee. hist. p.* 229, *Hunt. in. & Mat. West. An.* 756. *Hol. Graf.* in his life.

(*o*) *Spee. hist. p.* 245, 246 *Hunt.* & *Mat. West. an.* 792 See *Holin. Graf.* & others

(*n*) *Matth. West. An.* 758. *p.* 275

(*o*) *Matth. West. An.* 821. *Speed hist. p.* 255.

(*p*) *Mat. West. Hunt. Poly. Pab. Holin. Graf. An.* 957.

and *noblest person*, was, by the *unanimous consent of all his Subjects, removed from all Kingly dignity, and deposed*; in whose place *Edgar* was elected King, *An.* 957. DEO DICTANTE *& annuente populo.* Not to mention the story of (*q*) *Archigallo*, one of our ancient *British* Kings, in times of Paganisme; *Who giving himselfe to all dissention and strife, imagining causes against his Nobles, to put them from their goods and dignities, setting up ignoble persons in their places, and plucking away by sinister, wrongfull meanes from the rich their wealth and goods, by which he enriched himselfe, and impoverished his Subjects; was for these his conditions murmured against by his Subjects; who of one assent lastly tooke and deprived him of all Kingly honour and dignity, when he had Reigned almost five yeares*, making his Brother *Elidurus* King of *Britaine*, by one assent, in the yeare of the world, 4915. Who after five yeares good Reigne, feigning himselfe sicke, assembled the Barons of the Land, and by his discreet words, and bearing loving carriage, *Perswaded them to restore Archigallo to his former honour and regalty*; and thereupon assembling a Councell of his *Britaines at Yorke, caused such meanes to be made to the Commons*, that in conclusion he resigned his Crowne to *Archigallo*: *Who being thus restored to his Crowne by joynt consent of the people, remembred well the evill life that before time he had led, and the punishment hee had suffered for the same.* Wherefore for *eschewing the like danger, he changed all his old conditions and became a good and righteous man, ministring to the people equity and justice, and bare himselfe so nobly towards his Lords and Rulers, that he was beloved and dread of all his Subjects, and so continued during the terme of his naturall life.* Nor yet to remember (*r*) *Emerian*, another old British King, *who for misordering of his people was deposed by them, in the sixth yeare of his reigne, and* Ydwallo *promoted to the Kingdome*; *who taught by* Emerian *his punishment, behaved himselfe justly all the time of his reigne*: or any more such precedents before the Conquest.

(*q*) *Fabian, part 2. c. 49. 40. 41. p. 30. 31. with Matth. Westm. Huntingdon, Polychronicon, Geoffry Monmouth, Hollinsh. Grafton, Speed,* and others in his life.

(*r*) *Fabian, part 2. c. 46. p. 34. Geoffry Monmouth, Huntingdon, Matthew Westm. Polychron, Hollinsh. Grafton, Speed,* in his life.

We finde the (*s*) *Popish Barons, Prelates, and Commons*, disavowing *King John*, whom they had formerly elected King, for making warre upon them, and wasting, burning and spoyling the Kingdome like an Enemy, and electing *Lewis of France* for their King, to whom they did homage and fealty: There are none so ignorant but know, that the Popish Prelates, Lords and Commons in Parliament, (*t*) *Anno* 1327. deposed King *Edward* the second their naturall King, for his misgovernment, and following and protecting ill Counsellors, inforcing him by way of complement to resigne his Crowne, threatning else, that they would never endure him, nor any of his Children, as their Soveraigne, but disclaiming all homage and fealty, would elect some other for King not of his bloud, whom themselves should think most fit and able to defend the kingdome. After which they elected and crowned his son *Edward* the third for their King. That *Anno* 1399. (*u*) *King Richard the second*, for sundry misdemeanours objected against him in 32. *Articles* in Parliament, and *breach of his Coronation Oath*, was *judicially deposed* by a Popish Parliament, by a definitive sentence of deposition given against him, which you may read at large in our Historians, and *Henry* the fourth elected and created King in his stead: In both which depositions the Popish Prelates were chiefe actors. (*x*) *Anno* 1462. *King Henry the sixth, Queene Margaret and Prince Edward* their Sonne were by a popish Parliament disinherited of their right to the Crowne; and *Edward* the fourth made King: after which King *Henry* was by another Parliament recrowned, and re-established in his kingdome, and *Edward* the fourth declared a Traytor and usurper of the

(*s*) *Fabian, part 2. c. 49. p. 30. 31. Matth. Westm. Huntingdon, Polychronicon, Geoffry Monmouth, Hollinsh. Grafton, Speed,* and others in his life. *(f) Matth. Paris, hist. Angl. p. 264. to 280. Speed. p. 585. &c. Hollinshead Grafton, Stow, Daniel, Walsingham.*

(*t*) *Walsingham, hist. Angl. p. 398. &c. Fabian, part. 7. p. 345. Polychron. l. ult. c. 9. Hollinshead, Grafton, & Speed, p. 758 to 766.*

(*u*) *Walsingham Hol. Fab. Speed, p. 680. to 697.*

(*x*) *Speed, p. 869 878. 879. 887. Hollinsh. Polychronicon, Fabian, Grafton, Hall, Stow, Caxton* in their lives.

Crowne

Crowne. And not long after, *Edward* taking King *Henry* prisoner, and causing him to be murdered in the Tower, another Popish Parliament, *Anno* 1472. abrogated *King Henries* Lawes, and re-established King *Edward*. All this have our Popish Parliaments, Prelates, Lords and Commons formerly done, and that rightly and legally, as they then supposed; which farre transcends the highest straines of pretended incroachments on his Majesties royalties by the present Parliament.

Secondly, our Popish Parliaments, Peeres and Prelates have oft translated the Crown from the right heires, & setled it on others who had no lawful right or title to it, electing and acknowledging them for their onely Soveraigne Lords; in which actions the *Popish Prelates* and Clergy were commonly the Ring-leaders: witnesse their (*y*) electing and crowning of *Edward*, who was *illegitimate*, and putting by *Ethelred* the right heire after *Edgars* decease, *An.* 975. Their electing and Crowning *Canutus* King, a meere forrainer, in opposition to *Edmund* the right heire to King *Ethelred*, *Anno* 1016. Of *Harold and Hardiknute*, both elected and crowned Kings successively without title, *Edmund* and *Alfred* the right heires being dispossessed, and the latter imprisoned and tortured to death, *Anno* 1036. and 1040. yet after *Hardiknutes* decease *Edward* (surnamed the Confessor) was chosen King by consent of Parliament. And the English Nobilitie, upon the death of King *Harold*, enacted, *That none of the Danish bloud should any more reigne over them.* After this Kings death, *Edgar Etheling* who had best title, was rejected, and *Harold* elected and crowned King: so after *William* the Conquerors decease, *Anno* 1087. *Robert* the elder brother was pretermitted, and *William Rufus* the younger brother crowned and established in the Throne: After whose death *Henry* the first, his younger brother (though not next heire) was elected King by the Clergy, Nobles and Commons, (*who refused to admit of any King but with capitulations and caveats to their owne liking*) *upon faire promises for reforming bad and rigorous Lawes, remission of Taxes exacted on the Subjects, and punishment of the chiefe causers of them, and a solemne Oath to frame good Lawes, and ratifie Saint Edwards Lawes*; all which he really performed. So after the death of *Richard the first*, *John Earle of Morton* was established and crowned King, and his Nephew *Arthur*, the right heire, disinherited. And he dying, his sonne *Henry* the third was elected and crowned, and *Lewis* (made King in his fathers life by the Barons) removed. The like we finde in the case of K. *Henry* 4. K. *Edw.* 4. and *Richard* the third, made Kings by Acts of Parliament, by our Popish Prelates and Nobles with the Commons consent, upon unlawfull or doubtfull Titles, by way of usurpation, and the right hereditary line put by. Such a transcendent power and jurisdiction as this to disinherit the right heire and transferre the Crowne to whom they thought meetest, neither the present nor any other Protestant Parliaments, Peeres or Subjects ever exercised, though Popish Parliaments, Prelates, Lords, and Commons have thus frequently done it; of which you may reade more in 25 *H.* 8. *c.* 22. 26 *H.* 8. *c.* 12. 28 *H.* 8. *c.* 7. 35 *H.* 8. *c.* 1. and other Acts hereafter cited.

(*y*) *Speed p.* 410 411. 425, 426. 404. to 407. 410 416. 418 419 455, 456. 466, 467. 548, 549, 550, 590, 591 762 See *Matthew Paris, Matth. West. Malmsbu. Hunt. Eadmerus Fabian, Walsing. Caxton, Polych. Polydor, Virgil. Hall, Grafton, Stow, Hol. Hayward, Martin, Daniel*, and Sir *Rich. Baker* in their severall lives of these Kings.

Thirdly, the Lords and Commons in times of Popery have sent out Writs and summoned Parliaments in the Kings name, and forced the King to call a Parliament without and against his full consent. Thus *Anno* 1214. (*z*) the Barons petitioned King *John* to confirme *Magna Charta* and their Liberties tendered to him; who having heard them read, in great indignation asked; *Why the Barons did not likewise demand the Kingdome?* and swore, *that he would never grant those Liberties whereby himselfe*

(*z*) *Mat. Paris first p.* 243. to 255. *Daniel, p.* 142, 143, 144.

himselfe should be made a servant : So harsh a thing is it (writes *Daniel*) *to a power that hath once gotten out into the wide liberty of his will, to heare againe of any reducing within his circle : not considering, how those who inherit Offices succeed in the Obligation of them, and that the most certaine meanes to preserve unto a King his kingdome, is to possesse them with the same conditions that he hath inherited them.* The Barons hereupon raise a great Army at *Stamford*, wherein were 2000. Knights besides Esquires, constituting *Robert Fitz-Walter* their Generall, intituling him, *the Marshall of the Army of God and holy Church; seize upon the Kings Castles : and the Londoners sending them a privie message to joyne with them, and deliver up the City to be guided by their discretion: thither they repaire, and are joyfully received under pact of their indempnity. After which they sent Letters to the Earles, Barons, and Knights throughout England, who seemed (although fainedly) to adhere to the King, exhorting them with a commination,* that as they loved the indemnity of their goods and possessions, they should desert a perjured King, and that adhering faithfully to them, they should with them stand immovably, and effectually contend for the Liberties and peace of the kingdome. which if they contemned to doe, they would with Armes and Banners displayed, march against them as publike enemies, subvert their Castles, burne their houses, and edifices, and not cease to destroy their Ponds, Parkes, and Orchards: *Whereupon all the Lords, Knights, and people deserting the King, who had scarce seven Knights in all left with him, confederated themselves to the Barons. The King seeing himselfe generally forsaken, counterfeits the Seales of the Bishops, and writes in their names to all Nations*; that the English were all turned Apostates, and whosoever would come to invade them, he, by the Popes consent, would conferre upon them al their lands and possessions. *But this devise working no effect in regard of the little credit they gave to and confidence they had in the King, the truth being knowne, all men detested such wickednesses and forgeries, and so the King fell into his owne snares; Hereupon the King fearing the Barons would take all his Castles without any obstacle, though he conceived an inexorable hatred against them in his heart, yet he craftily dissembled, that he would make peace with them for the present; ut cum furtim surrexisset, in dissipata agmina acrius se vindicaret; & qui in omnes non poterat, in singulos desæviret.* Wherefore sending *William Marshall Earle of Pembroke to them, with other credible messengers, he certified them, that for the good of peace, and the exaltation and honour of his kingdome, he would gladly grant them the Lawes and Liberties they desired; commanding the Lords by the same messengers that they should provide a fit day and place, where they might meete and prosecute all these things: Who related all these things deceitfully imposed on them, without fraud to the Barons at* London; *who appointed the King a day to come and conferre with them in a Meade betweene* Stanes *and* Windsor, *called* Running-meade; *on the 15. day of June. Where both parties meeting at the day, and conferring, the King perceiving his forces too weake for the Barons, who were innumerable, easily granted their subscribed Lawes and Liberties without difficulty, and confirmed them with his Charter, Hand, Seale, Oath, Proclamations, and other assurances,* which you shall heare anon : This meeting *Daniel* and others stile a *Parliament* (as well as that at (*a*) *Clarindon* and other assemblies in the open field) the great *Charter* being therein first confirmed; which Parliament the King by force of Armes was constrained to summon. So (*b*) *Anno Dom.* 1225. King *Henry* the third *cancelling the Charter of the Forest at* Oxford, *pretending that he was under age when he sealed and granted it at first, and so a nullity*: Hereupon the Barons *confederate*

(*a*) *Matth. Paris p.* 96 97. *Daniel p.* 85.

(*b*) *Matth. Paris p.* 324. 325. *Daniel. p.* 151. 152.

rate by Oath, and put themselves in Armes at Stamford, *from whence they sent to the King, requiring him to make restitution without delay of the Liberties of the Forests Lately cancelled at* Oxford, *otherwise they would compell him thereto with the sword; to avoyd which danger he was enforced to summon a Parliament at* Northampton, *where a concord was concluded on all hands, Anno* 1226. and so the Parliament brake up, (c) *Anno* 1237. *Henry* the third incensing his Nobility and generally all his Subjects, by his entertainment of Forainers by whom he was ruled, by marrying his sister *Elianor* to *Simon de Monfort* a banished Frenchman, and his oppressions, contrary to his Oath and promise in Parl. that year, put them into a new commotion, who thereupon made a harsh *Remonstrance of their grievances to him*, by his brother *Richard*, by means whereof the King was forced to call a *Parliament* at *London Anno* 1238. *whither the Lords came armed to constraine the King* (if he refused) *to the reformation of his courses.* (d) *Anno* 1250. King *Henry* is againe enforced *by the Barons and* 24 *Peeres to call a Parliament at* Oxford *and at* London *against his will, and to assent to ordinances therein made*: And *Anno* 1264. he was likewise constrained to call two other Parliaments at *London*, and to assent to the new Ordinances therein proposed, which he did onely to get time and circumvent the Barons. (e) *Anno Dom.* 1310. and 1311. King *Edward the second* was in a manner constrained at the instant supplication of his Nobles to summon a Parliament, and to banish his Minion *Pierce Gaveston* against his will. (f) In the 14. and 15. yeares of this King, the Barons raising an Army by force of Armes compelled him to summon a Parliament at *Westminster*, and to passe an Act for the banishment of these two great Favorites the *Spencers* who miscounselled and seduced him, and oppressed his people. (g) And in the last yeare of this Kings reigne, his Popish Prelates, Nobles, and Commons, taking him prisoner, summoned a Parliament in his name much against his will: wherein for his misgovernment, they enforced him to resigne his Crowne; deposed him, renounced their allegiance to him, and set up his sonne King *Edward* the third in his Throne; as you may reade at large in *Walsingham, Polychronicon, Caxton, Fabian, Grafton, Hollinshead, Speed, Stow, Howes, Daniel*, Mr. *Fox*, and others who have written the History of his life. In the yeare 1341. (the 15. of *Edward* the third his reigne) the Popish Lords, Prelates, and Commons in *Ireland, summoned a Parliament there by their owne authority*, without, and against the Kings or Deputies consents; *wherein they framed divers Questions and Articles against the Kings Ministers there imployed*, (which the *Irish* (h) *Annals* record at large) *refusing to appeare at the Parliament there summoned by the Kings authority and Officers.* I reade in the Statute of 21 *R.* 2. *c.* 12. (and our (i) Historians have a touch of it.) *That the Duke of Gloucester, and the Earles of Arundel and Warwicke assembled forcibly and in great number at Harengy, and so came in such manner forcibly to the Kings Palace at Westminster, arraied in manner of warre, that the King might not then resist them without great perill of his body and destruction of his people: so that by coertion and compulsion the said Duke and Earles made the King to summon a Parliament at Westminster the morrow after the Purification of our Lady, the eleventh yeare of his reigne: Which Parliament so begunne, the said Duke and Earles in such forcible manner continued; and in the same did give many and divers judgements, as well of death of man as otherwise, upon divers of the Kings liege people, and did give judgement of forfeitures of lands, tenements, goods, and cattels, whereof they be convict of high Treason; and also for certaine questions, which were demanded by the King touching*

(c) *Matth. Paris p.* 420. 421. 430. 451. 452. See *Matth. West. Polychronicon, Fabian, Hollinsh. Grafton, Dan. p.* 157. 158.

(d) *Matth. Paris, p.* 938 940 941. 942. *Dan. p.* 177. 179

(e) *Walsingh. Hist p.* 70 71. See *Fabian. Hollinshead, Graft. Speed, Daniel, in* 3 & 4 *E.* 2.

(f) *Walsingham, Hist. p.* 90. 91, 92, 93. *Exilium Hugonis le Despenser, in Magna Charta. part.* 2 *f.* 50. to 57. See *Hollin. Fabian, Speed, Grafton, Daniel, in* 14. & 15. *E.* 2.

(g) *Hist. p.* 107. 108 *Ypodigm. Neustr. p.* 109. 110.

(h) In *Cambd. Britan.* the last English edition *p.* 188.

(i) *Grafton, Tyrrell, Hollinshead, Speed, Walsingham, in* 10 & 11. & 21. *R.* 2.

his estate and regality, of certaine of his Judges, then at Notingham *the same yeare. And for their answers of the same, given to the King upon the same questions, the same Justices were forejudged of their lives, and judgement given against them of forfaiting their Lands, Goods, and Chattels; and the said Duke and Earles made divers Statutes and Ordinances in that Parliament at their will,* the summons whereof was *made expressely against the right of the Kings Crowne, and contrary to the Liberty and Franchese of his person and Royall estate:* Whereupon it was by this packed over-awed Parliament, and Act, annulled, revoked, and holden as none; as a thing done without Authority, and against the will and liberty of the King, and the right of his Crown. Yet it continued in full force for 10. yeares space, during which time there were 8 Parliaments held which would not repeale it: and by the Parliament in 1 *H.* 4. *c.* 3, 4. this Parliament of 21 *R.* 2. was repealed, with all the circumstances, and dependants thereof; the Parliament and Statutes of 11 R. 2. *Revived, and enacted to be firmely holden and kept after the purport and effect of the same, as a thing made for the great honour and common profit of this Realme.* After this in the 23 yeare of King *Richard* the third, when he had yeelded himselfe prisoner to *Henry* Duke of *Lancaster*; the Duke comming with him to *London, sent out* (*k*) *summons for a Parliament to be holden the last of September, in the Kings name,* (*sore against his will*) *and enforced him first to resigne his Crowne unto him, and afterwards caused him to bee judicially and solemnely deposed by consent of all the States of the Realme in Parliament, for certaine abuses in his Government objected against him*; The whole manner of which resignation, deprivation, and proceedings, you may reade at large in our Histories.

(*k*) *Walsin. Fab. Holinsh. Speed, Hall, Graf. Trussel, Hows,* in 23 R. 2. & 1 *H.* 4. *Fox Acts* and *Mon. vol.* 1. *edit. ult. p.* 671, 677

Theese Popish Prelates, Lords and Commons, enforcing their Kings to summon all theese Parliaments, (with others which I pretermit) might seeme to have some legall colour from the ancient Law of King *Alfred*; who in an assembly of Parliament (*l*) *Enacted* this for a perpetuall Custome: *That a Parliament should be called together at London* TWICE EVERY YEARE, OR OFTNER, *in time of Peace, to keepe the people of God from sin, that they might live in peace, and receive right by certaine usages and holy judgements.* And from the Statutes of 4 *E.* 3. *c.* 4. & 36 *E.* 3. *c.* 10. (backing this ancient Law) which enact: *That for the maintenance of the Lawes and Statutes, and redresse of divers misdeeds and grievances which daily happen, a Parliament shall be holden* EVERY YEARE ONCE, and MORE OFTEN IF NEED BE. Now theese Lawes would have beene meerely voyd and ineffectual, if theese Kings, who were obliged by their Coronation Oathes to observe them, refusing to call a Parliament as often as there was need, or at least once every yeare, according to the purport of theese Lawes, might not be constrained by their Nobles, Prelates, people to summon them, in case they peremptorily refused to call them of their owne accords, or upon the motion or petition of their Counsell, Lords and Commons. Whereupon in the Bill newly passed this Session, for a *Trienniall Parliament*, for time to come, there is speciall provision made how the Parliament shall be summoned and convented by the Lords, Commons, and great Officers of the Realme, themselves, without the Kings concurrent assent, (though by his Writ and in his name) in case of his neglect or wilfull refusall to summon one within that time.

(*l*) *Hornes Mirrour of Justices, c.* 1. *sect.* 3. *p.* 10. *Cookes Instit. on Lit. f.* 110. and 9. Report in the Preface, *Spelm. Concil. Tom.* 2. *p.* 347.

(*m*) *Surius tom.* 1. *Concil p.* 342

Neither is this a thing unusuall in other parts. In the (*m*) Generall *Councell* of *Nice An.* 363. Canon 5. it was decreed; *That a Councell should be held* TWICE EVERY

RY YEARE *in every Province to reguiue the affaires and abuses of the Church. The* (*n*) *Councell of Antioch*, Can. 20. *appoints two Councels to be held every yeare in every Province, the one the third weeke after* Easter, *the other upon the* 15. *of October: to heare and determine all Ecclesiasticall causes and controversies.* And in the 1. (*o*) Councell of *Constantinople*, Can. 3. *The Councell* of *Africke*, Can. 18. *Pope Leo* the first, in his Decretall Epistles, Epist. 4. c. 17. The Counsell of *Chalcedon*, Can. 19. the third Counsell of *Toledo* under King *Recaredus*, *An.* 600. cap. 18. the fourth Counsell of *Toledo*, under King *Sisenandus*, *An.* 681. The Greeke Synods, Collected by *Martin* Bishop of *Bracara*, cap. 18. the second Counsell of *Aurelia*, Can. 2. the third at the same place Can. 1. and the fourth, Can. 37. the second Synod of *Towres*, Can. 1. the fifth Counsell of *Aurelia*, cap. 22. the Counsell at *Hereford*, under King *Egfred*, *An.* 670. in *Beda's* Ecclesiast. Hist. *l.* 4. *c.* 5. Pope *Gregory* the first in his Decretall Epistles, *lib.* 7. *Registri*, Epist. 110. the sixt Counsell of *Constantinople*, Can. 8. the Counsell of *Antricum*, Can. 7. the Counsell of *Mascon*, Can. 20. (*p*) Pope *Gregory* the third his Decretall Epistles. The Synod of *Suessons*, under King *Childeric*, the Counsell under King *Pepin*, at the Palace of *Vernis*, *An.* 755. cap. 4. The Counsell of *Paris*, under *Lewis*, and *Lothaire*, *An.* 829. *l.* 3. cap. 11. The Counsell of *Melden*, *An.* 845. cap. 32. With sundry other Counsells, decree, that a Synod or Counsell *shall be kept twice* (or at the least once) *every yeare, at a certaine time and place in every Province; that all Bishops and others, unlesse hindered by sickenesse, or other inevitable occasions, should be present at it, and not depart from it till all businesses were ended, and the Counsell determined, under paine of excommunication; that Kings by their mandates should not interrupt* these Counsells, *nor keepe backe any Members from them.* And to the end they might be the more duely observed without interruption for want of a new Summons; they likewise decreed; "That before the Counsels determined, they should still appoint both "the day and place, when and where the next Counsell should assemble, of which "every one was to take notice, and to appeare there at his perill, under paine of "excommunication and other censure, without any new citation. *Yea, the Great* (*q*) *Counsell of Basil*, *An.* 1431. *Session* 15. *provides and decrees*; "That in every "Province an annuall, or at least a bienniall or trienniall Counsell at furthest, shall "be kept at a set time and place, where none should faile to meet under paine of for-"faiting halfe their annuall Revenues; And if the Metropolitan, without lawfull "impediment, should neglect to summon such Counsels at the times appointed; he "should for his first default forfait the moity of his Revenues; and if within three "moneths after he neglected to summon the said Counsell, then he was to be suspen-"ded from all his Offices and Benefices, and the ancientest, or most eminent Bishop "in the Province in his default, or any other that by custome ought to doe it, was "to supply his neglect in assembling and holding the Counsell. As it was thus in summoning Counsels, for the government of the Church, and Ecclesiasticall affaires: (many of which Counsels, as is evident by (*r*) divers *Saxon*, *British*, *Spanish*, *French Counsels*, *were no other but Parliaments, wherein the King and all temporall estates assembled, and sate in Counsell as well as the Prelates and Clergie*, as they did as well in generall, as in Nationall and Provinciall Counsels;) so likewise in calling Diets, Parliaments, and General Assemblies of the Estates, for setling and ordering the Civill affaires of Kingdomes. Not to mention the power of assembling the *Roman* Senate, residing principally in the Consuls, as (*s*) *Bodin* proves at large.

(*n*) *Surius tom.* 1. *p.* 427.
(*o*) *Surius tom.* 3. *p.* 488. 574. 575. 732. *Tom.* 2. *p.* 203. 675. 728. 754. 603. 605, 641, 642. 643. 892, 695. 713. 1042. 715. 685. *Gratian*, *Distinct.* 18. *Iuo Carnot. Decret. pars* 4. 241, 243, 244, *Spel. Concil. tom.* 1. *p.* 153.
(*p*) *Surius tom.* 3. *p.* 24. 42, 406.
(*q*) *Surius tom.* 4. *p.* 44.
(*r*) See *H. Spel. Concil. tom.* 1. *p.* 529. *Sigibert*, *An.* 528. *Eadm. hist. Nonor. l.* 3. *p.* 67. *Con. Tolet.* 8. 12 and others *Aquisgra. Conc. sub Ludovico Pio.*
(*s*) *Commonw. l.* 3. *c.* 1.

In the (t) kingdome of *Aragon* in *Spaine*, of ancient times by an ancient statute of "that Kingdome, a Parliament or generall assembly of the States was to assemble at "a set time and place, once every yeare at least, and of later times by other Lawes, "once every second yeare. Neither can the King of *Aragon* hinder or adjourne this "Assembly above forty dayes at most, nor adjourne or dissolve it when met, but BY THE GENERALL CONSENT OF ALL THE COURT. "And during the *Interregnum*, when there is no King, the Estates themselves have "power to assemble and make Lawes, not onely to binde themselves, but the suc-"ceeding King: As they may likewise doe in *Hungary*; where the (u) Grand *Pa-"latine* (elected by the Estates of *Hungary* alwayes in their Parliament, not the King) during the *Interregnum* hath power to call a Parliament or generall assembly of the States of *Hungary*, to make obligatory Lawes, as well to succeeding Kings as to the "kingdome.

(t) *Hieronymus Blanca Aragonensium Rerum comment. p. 764 &c. 688, 689. 723, 724.*

(u) *Nichol. Isth. de Rebus Ung. hist. l. 6 f. 84. 85*

* *Hieronymus Blanca* recites this Law of King *James* of *Aragon*, for altering their Annuall into a Bienniall Parliament. *Cum in Curiis, quas Reges suis subditis celebrant, ea quæ sunt ad conservationem pacis, ac justitiæ, & Statum pacificum Regni, & Regimen subditorum, & ad tuitionem & augmentum Reipub: ordinent & disponant: Nos* Jacobus *Dei Gratia* Aragonum *Rex, Licet jam per illustrissimum Dominum Regem* Petrum, *recolendæ memoriæ patrem nostrum, statutum fuisset in favorem* Aragonensium; *Quod ipse & sui Successores* QUOLIBET ANNO *eis curiam celebraret in Civitate* Cæsar-Augustæ, *quod etiam statutum fuit per Dominum Regem* Alfonsum *claræ memoriæ fratrem nostrum, & per nos postmodum confirmatum. Nunc vero attendentes ad Communem utilitatem totius Regni* Aragonum, *quia loca ubi Curiæ celebrantur, propter congregationem gentium magnum suscipiant incrementum;* DE VOLUNTATE & ASSENSU *Prælatorum, Religiosorum, Baronum, Mesnaderiorum, Militum, & Procuratorum Civitatum, Villarum, & Villariorum* Aragonum, *in hac Curia congregatorum: Statuimus, & perpetuo ordinamus, Quod de cætero nos & successores nostri faciamus, & celebremus Curiam generalem* Aragonum DE BIENNIO IN BIENNIUM, *in Festo omnium Sanctorum, in quacunque Civitate, Villa, vel Villario* Aragonum, *ubi nobis, & successoribus nostris melius fuerit visum expedire; non obstantibus statuto & ordinationibus prælibatis. In aliis vero, Privilegio generali* Aragonum, *& Foris per nos jam editis, in suo robore duraturis. Et hæc Juramus per nos & successores nostros perpetuo observare. Et Prælati & Religiosi, qui in dicta Curia erant, hæc firmarunt, & Barones, Mesnadarii, Milites, & Procuratores Civitatum, Villarum, & Villariorum similiter Jurarunt.* Which Law was afterwards somewhat altered, restraining these Parliaments to some Townes of great Receit. And concerning the forme of their Parliaments and their Kings power to adjourne them, or not adjourne them, he writes thus. *In Comitiis Respub: nostra quasi integrum quoddam fingitur corpus: cujus caput, censetur Rex: truncus vero corporis, ac membra in eo locata, ipsi Ordines; Justitia autem* Aragonum, *collum, quod utrumque conjungit, & corporis, & capitis faucibus adhæresçit. Ad nostra igitur comitia hi quatuor Ordines evocandi sunt. Evocantur autem singulatim per literas, quas apellamus, las Cartas dellamamiento. In his a Regibus proponitur ratio consilii, quo ductus Comitia habenda decreverit; tum ipsorum Comitiorum dicitur dies, ac opportunus designatur locus. De cujus mutatione, an fieri possit, ab eodem Molino hæc traduntur. Si in aliquo loco sunt semel convocatæ Curiæ generales, & inceptæ,* NON POTEST ILLAS MUTARE *seu continuare dominus Rex ad*

* *Aragon Rerum Comment. p. 762 763.*

alium

alium locum Regni, NISI TOTA CURIA GENERALI CONSENTIENTE. *Et idem paulo post. Tamen si Curiæ generales nondum sunt integre congregatæ, seu inceptæ; tunc Dominus Rex, etiam sine Curia potest illas mandare continuari ad alium locum sibi bene visum. Et ista continuatio fiet per justitiam* Aragonum, *seu ejus Locum tenentem. Quibus poterit Dominus Rex mandare, quod illas continuent ad locum domino Regi bene visum. Jus est autem; Ne comitia nostra ultra quadraginta dies possunt differri.*

* *The Estates and Parliaments generall of France,* under the Kings of the second Line, *met and held but twice in the yeare only,* according to the Testimony of *Hincmarus* Archbishop of *Reimes,* drawne from the Narration of the Abbot of *Corbie Alard,* who lived in the time of *Charlemayne*; under the Reigne of King *Lewis,* called *Sanctus,* when *France* was in her flourishing Estate, and the Princes and Lords were of souple nature, ranking with the termes of duty and obedience, the Parliaments were ruled and assured at certaine seasons of the yeare. For in times of Peace foure Parliaments were holden yearely, or three at the least. And the same was used under the Reigne of his Sonne *Philip the Hardy,* Third of the name. In the time of *Philip de Bel.* his Sonne, King of *France* and *Navarre,* they were reduced to two Parliaments yearely according to the ancient custome; One in Winter, and the other in Summer during Peace; and but one in Winter during Warre. (It appeareth nevertheless by the Registers of the Court, that by hinderance of warre against the Rebellious *Flemmings,* there was not any Parliament during some yeares;) And the King by his Ordinance, dated the Munday after Mid-lent, *An.* 1302. (set downe in the Register of ancient Orders of Parliament, fol. 45.) *Willed, that for the commodity of his Subjects there should be every yeare two Parliaments at Paris, and in other Provinces;* as *Andrew Favin* Records: By which it is apparent, that Parliaments in *France, Spaine,* and other kingdomes, were not arbitrarily called at the Kings free pleasures as seldome as they pleased, but frequently summoned every yeare, once, twice, or more, at certaine seasons, by publike Acts of Parliament, for the better government of these Realmes, redresse of grievances, and preservation of the peoples Liberties against all royall encroachments on them.

* *Andrew Favine* his *Theatre of Honour. l. 2. c. 12. p. 175. 176.*

In *Germany,* though Diets and Assemblies of the States be commonly made by the Emperours, and in their names; yet, we find that the Princes Electors, and Estates have assembled, not onely without, but against the Emperours consents, when they saw good cause; and not onely questioned, but deposed their Emperours, and elected new in their steads, of which there are sundry precedents in the lives of (x) *Ludovicus pius, Henry the* 1, 4, 5, 6, 7. *Frederickes Barbarossa, Charles the Grosse, Wincestaus, Philip, Otho the* fourth, *Ludovicus Bavarus,* and others. In this regard therefore of forcing Kings to summon Parliaments (so frequent with Popish Prelates, Peeres, Subjects, both in our owne and other Realmes) our present Protestant Parliament, and all others, since the Reformation, have beene more moderate and dutifull, then those in times of Popery heretofore; or then the Popish Rebels in *Ireland* are now: (y) who have lately at *Kilkenny* held a kinde of *Parliament, erected new Lawes, and Officers of Justice, enacted new Lawes and Ordinances, as well Civill and criminall as Martiall, and done as much herein without the Kings assent or Commission, as our King and Parliament could do, if conioyned.*

(x) See *Grimston, Aventinus, Naucl. Munster, Sabelli. Usperg. Otho Frisingen. Herm. Schedel, Anton. Opincor. Mat. Par. Mat. West. Walsing.* & others in their lives and histories.

(y) See their 35 Articles made at their general Assembly at *Kilkenny* 1642.

Fourthly, Our Popish Barons, Prelates and Commons, *have refused to meete in Parliament*

liament when the King hath summoned them by his Writ. (z) *An. Dom.* 1233. King *Henry* the third summoned his Earles and Barons to appeare at a Parliament at *Oxford*, (where the King now resides;) but they all joyntly sent him an expresse message that they would not come upon his summons, for that the Kings person went guarded with *Poictovines*, and other strangers, who swayed and miscounselled him (as ill Counsellors doe now the King) so as they could not there appeare with safety: at which message the King grew very angry, resolving that they should be once, twice and thrice summoned to appeare: Whereupon *Roger Bacon*, who usually preached before the King, freely told him, *That if he did not remove from him Peter Bishop of Wincheſter, and Peter de Rivallis (his malignant Counsellors) he could never be quiet*: And *Roger Bacon* a Clergy man also of a pleasant wit, seconding *Roberts* advise, told the King, that *Petræ* and *Rupes* were most dangerous things at Sea, alluding to the Bishops name, *Petrus de Rupibus*. The King hereupon comming a little to himselfe, and taking that good advise of * Schollers which he would not of his Peeres, summons another Parliament to be holden at *Westminster*, giving the world to know withall, *that his purpose was, to amend by their advise whatsoever was to be amended.* But the Barons considering, *that still there arrived more and more strangers, men of warre*, with Horse and Armes (as now alas we see they doe) and not trusting the *Poictovine* Faith (as we have now cause to mistrust the perfidious papists, and malignant Cavaliers) and seeing no footsteps of peace (our present condition) refused to come at the appointed day; sending the King word by solemne Messengers, *that he should without any delay remove Peter Bishop of Wincheſter, and the other Poictovines out of his Court, which if he refused, they all of them by the common consent of the whole kingdome, would drive him, with his wicked Counsellors, out of the Kingdome, and consult about creating a new King.* These things thus acted, the King was much dejected in mind, and all his Court too, hanging downe their heads, and fearing not a little, lest the errors of the Sonne should become worse then the Fathers errors, whom his Subjects indeavouring to depose from his Royall Throne, almost detruded him to that name, which was given him by a certaine presage; *John the Banished*: Wherefore he could easily have beene drawne to redeeme the love of his naturall Liegemen, with the disgrace of a few strangers.

(z) *Mat. Paris, an. 1233. p. 344 473. &c. Speed hist. p. 607. to 613, Daniel p. 154, 155.*

* Who now give the King no such good advice

But the Bishop of *Wincheſter*, with other his ill Counsellors, and *Poictovine* Cavaliers, counselled him *to take up Armes against his rebellious Subjects*, as they stiled them, *and to give their Castles and Lands to them, who would defend him and the kingdome of England from these Traytors*, (The Counsell now given to his Majesty, by his ill Counsellours and Cavaliers:) hereupon the King inclining to the worser part, raiseth an Army of *Poictovine*, & foraine Souldiers, which came to him being sent for out of *Flanders*, (from whence the King now hath many old Souldiers, and Commanders sent him) seiseth a Manour of *Guilbert Bassets*, a Noble man, given him by King *John*, calling him Traytor when he demanded it; sets downe a day, wherein all his Lords he suspected should deliver him sufficient pledges of their loyalty; and being at *Glocester* with his Army,) whither the Lords refused to come, being required, (the King thereupon, as if they were Traytors, burnes their Manors, destroyes their Parkes and Ponds, besiegeth their Castles, and without the judgement of his Court, and of their Peeres, denounceth them exiles and banished men, gives their Lands to the *Poictovines*, and adding griefe to griefe, wound to wound, commanded their bodies

dies to be apprehended where ever they were within the kingdom: he likewise sends a defiance to the Earle Marshall, whose Lands he had wasted, who thereupon understood himselfe discharged of that obligation by which he was tyed to the King, and free to make his defence; Whereupon, he seeing neither * *Faith, nor Oath, nor Peace to be kept by the King, or his ill Counsellours,* who contrary to their promise and Oath, refused to deliver up his Castle, which they promised to render to him, upon demand; he raiseth a great Army, and takes his Castle. On this the King upon better consideration, did againe promise and affirme; That by advise of his great Councell, all that was amisse should be rectified and amended; And at the day and place appointed, he holds a great conference with the Lords; But the evill Counsellers he followed, suffered him not to make good his promise. For when divers there present, greatly in the Kings favour, with sundry Preachers and Fryers, whom the King was wont to reverence and hearken to, *Humbly beseeched, and earnestly exhorted the King to make peace with his Barons and Nobles,* and to embrace them with due affection, being his naturall Subjects, whom without any judgement by their Peeres he had banished, destroying their Manours, Woods, Parkes, Ponds; and being led and seduced by evill Counsels, lesse regarded his faithfull Subjects, (whose native blood would not permit them to bow downe) than Forainers; and which is worse, called them Traytors, by whom he ought to settle the peace, order the Counsels, and dispose the affaires of his kingdome: The Bishop of *Winchester* (offended it seemes at Peeres) takes the word out of the Kings mouth, and answers; That *there are not Peeres in England, as in the Realme of France; and that therefore the King of England, by such Justiciars as himselfe pleaseth to ordaine, may banish any offenders out of the Realme, and by judiciall processe condemne them.* Which insolent speech the *English* Bishops relished so harshly, that they presently with one voyce threatned to accurse and excommunicate by name the Kings principall wicked Counsellers; of whom *Winchester being the foreman,* appealed; whereupon they accursed (and I would our Bishops would doe so now, if the *God-dam-me Cavaliers* accurse not themselves sufficiently) all such as alienated the heart of the King from his Subjects, and all others that perturbed the peace of the Realme; and so the hoped Accomodation vanished into greater discontents. Hereupon the Earle Marshall and other Lords with their Forces, fell pell mell upon the Kings Army, slew divers of his Forrainers; and in conclusion drew him to such straits, that enforced him to be capable of better advise: Then *Edmund* Arch-Bishop of *Canterbury* elect, with other suffragan Bishops, bewailing the estate of the kingdome, presented themselves before the King at *Westminster*, telling him as his loyall liegeman (and O that some Bishop or faithfull person, if there be any such about his Majesty, would now deale thus clearely with him, touching his evill Counsellors!) "That the Counsell of *Peter* Bishop of *Winchester*, and his complices, which now he had and used, was not sound nor safe, "but evill and dangerous to himselfe and his Realme: First, for that they hated "and despised the *English*, calling them Traytors, turning the Kings heart from the "love of the people, and the hearts of the people from him, as in the Earle Marshall, whom (being one of the worthiest men of the Land) by sowing false tales "they drave into discontentment. Secondly, that by the Counsell of the said *Peter*, "his Father King *John*, first lost the hearts of his people, then *Normandy*, then other "lands, and finally wasted all his treasure, and almost *England* also, and never after

* *Note.*

The Parliaments present case.

"had quiet. Thirdly, that if the Subjects had now beene handled according to Justice "and law, & not by their ungodly Counsels, these present troubles had not hapned, "but the Kings lands had remained undestroyed, his treasure unexhausted. Fourthly, "that the Kings Councell is not the Councell of peace but of perturbation, because "they that cannot raise themselves by peace, must raise themselves by the troubles & "dis-inheriſon of others. Fifthly, that they had the Treasure, Castles, Wardships, and "strength of the kingdome in their hands, which they insolently abused, to the "great hazard of the whole estate, for that they made no conscience of an Oath, "Law, Justice, or the Churches censures. Therefore we, O King, speake of these "things faithfully unto you, in the presence of God and man, and doe counsell, "beseech and admonish you, to remove such a Councell from about you; and (as "it is the usage in other Realmes) governe yours by the faithfull and sworne chil-"dren thereof. *To which the King in briefe answered*; That he could not suddainely * *Speed Ibid.* "put off his Councell, and therefore prayed a short respite. *Nothing had hither-"to *preserved the King more*, Than that he could without griefe forgoe any favorites, "if he were nearely pressed; the contrary quality whereof hath beene the cause of "finall desolation to so many Princes. For though choyce of Counsellers be for the "most part free, yet by common intendment they should be good; or how ever they "are, or are not; it is madnesse to hazard a Crowne, or lose the love of a whole "Nation, rather than to relinquish or diminish a particular dependance, for which "the publique must not be hazarded, nor subverted; The King therefore, in this "point not infortunate, commands Bishop *Peter* from his Court, to keepe residence "at his Cure, without once medling in State affaires, removes all his evill Coun-"sellors, deprives them of their Offices, and puts good men in their places, and "commands all *Poictovians* and Foraine Forces to depart the Realme, receives all "his Nobles unto favour, restoring them to their lost Offices, Lands, Castles, admits "them into his Court and Councell; puts all his ill Counsellours, and Delinquent "Officers to their legall trials and fines. And for *Peter Rivales*, his Treasurer, he "was so incensed against him for his ill Counsell, that he sware he would plucke "out his eyes, were it not for reverence of his holy Orders. And at his Arraign-ment at *Westminster* the King sitting in person with his Justices upon the Bench, and shooting *Rivales* through with an angry eye, spake thus to him. "O thou "Traytor, by thy wicked advise, I was drawne to set my Seale to those Treache-"rous Letters, for the destruction of the Earle Marshall, the contents whereof were "to me unknowne; and by thine and such like Counsell, I banished my naturall "Subjects, and turned their mindes and hearts from me. By thy bad counsell and "thy complices, I was moved to make warre upon them to my irreparable losse, and "the dishonour of my Realme, in which enterprise I wasted my Treasure, and lost "many worthy persons, together with much of my Royall respect. Therefore, I "exact of thee an accompt, and thou shalt be carryed to the Tower of *London*, to "deliberate till I am satisfied. And thus were these civill warres and differences reconciled, ill Counsellors removed, enormities reformed, Delinquents punished, (not without reducing store of coyne to the King) and peace established in the king-dome. Which History, I have more largely recited, because most of its passages are Parallel to the Kings, and his evill Counsellors present proceedings, on the one hand, and to the Parliaments in some sort, on the other hand in the premises; and I doubt

doubt not but they will prove parallels in the conclusion, to the terrour and just punishment of all ill counsellors, Cavalieres, and Delinquents, the contentment of all good Subjects joy, and re-establishment of our peace in truth and righteousnesse.

To end the point proposed; * *Anno Dom.* 1315. King *Edward* the second by his Writ summoned a Parliament at *London*; *But many of the Lords refused to come, pretending causes and impediments, by which their absence might well be excused, and so this Parliament tooke no effect, and nothing was done therein.* In this particular then Popish Prelates, Lords and Commons, have exceeded Protestants in this, or any other Parliament.

* *Walsing. Hist. p. 84. 44. & Tpod. Neust. p. 101.*

Fifthly, Popish Parliaments, Prelates, Lords and Subjects have by *Force of Armes compelled their Kings to grant and confirme their Lawes, Liberties, Charters, Priviledges, with their Seales, Oathes, Proclamations, the Popes Buls, Prelates Excommunications; and to passe, confirme, or repeale Acts of Parliament against their wils.* Thus the Barons, Prelates, and Commons, by open warre and Armes enforced both (*a*) King *John*, and King *Henry* the third, to confirme *Magna Charta*, and *Charta de Foresta* (both in and out of Parliament) sundry times with their hands, Seales, Oathes, Proclamations, and their Bishops Excommunications, taking a solemne Oath one after another at Saint *Edmonds*, upon the High Altar, 1214. *That if King* John *should refuse to grant these Lawes and Liberties, they would wage warre against him so long, and withdraw themselves from their Allegiance to him, untill he should confirme to them by a Charter ratified with his Seale, all things which they required: And that if the King should afterwards peradventure recede from his owne Oath, as they verily beleeved he would, by reason of his double dealing, they would forthwith, by seizing on his Castles, compell him to give satisfaction*; Which they accordingly performed, as our Histories at large relate. Yea, when they had enforced King (*b*) *John* thus to ratifie these Charters, for the better maintenance of them, they elected 25. Barons to be the Conservators of their Priviledges, who by the Kings appointment (though much against his liking, as afterwards appeared) tooke an Oath upon their Soules, that with all diligence they would observe these Charters, *& Regem cogerent*; and would COMPELL THE KING, if he should chance to repent, to observe them; All the rest of the Lords and Barons, then likewise taking another Oath, to obey the commands of the 25. Barons.

(*a*) *Mat. Pa. An.* 1214, 1215. *p.* 240. *to* 256. *& Matth. West. & Walsingh. Tpod. Neust An.* 1214 1215. *Fabian, Caxton, Hollin. Grafton, Daniel in the life of K.* John *&* Hen. 3. *Speed, Hist p.* 578. *to* 637.

(*b*) *Matth. Par. p* 252. *Sp. Hol. accordingly.*

After this (*c*) *Anno Dom.* 1258. King *Henry* the third summoned a Parliament at *Oxford*, whither the Lords came armed with great Troopes of men for feare of the *Poictovines, to prevent treachery and civill warres, and the Kings bringing in of Foraine force, against his naturall Subjects*; to which end they caused the Sea-ports to be shut up, and guarded. The Parliament being begun, the Lords propounded sundry Articles to the King, which they had immutably resolved on, to which they required his assent. The chiefe points whereof were these: *That the King should firmely keepe and conserve the Charter and Liberties of* England, *which King* John *his Father made, granted, and ratified with an Oath, and which himselfe had so often granted, and sworn to maintaine inviolable, and caused all the infringers of it, to be horribly excommunicated by all the Bishops of* England, *in his owne presence, and of all his Barons; and himselfe was one of the Excommunicators. That such a one should be made their Chiefe Justice, who would judge according to Right, without respect to poore or rich. With other things concerning the kingdome, to the common utility, peace, and honour of the King and kingdome.*

(*c*) *Matth. Par. An.* 1258. *p.* 940. 941. *Mat. Westmin.* 1258. *Walsingh. Tpod. Neustr. p.* 61. *Sp. p* 635 *Hol. Grafton, Daniel, Polydor.*

To these their necessary Counsels and provisions, they did frequently, and most constantly, by way of advice, desire the King to condescend, swearing and giving their mutuall Faith and hands one to another; That they would not desist to prosecute their purpose, neither for losse of money or Lands, nor love, nor hate; no nor yet for life or death of them or theirs; till they had cleared *England* (to which they and their forefathers were borne) from upstarts and aliens, and procured laudable Lawes. The King hearing this, and that they came exquisitely armed that so he and his aliens might be enforced, if they would not willingly assent, tooke his corporall Oath (and his Sonne Prince *Edward* also) that he would submit to their Counsels, and all those their Ordinances, for feare of perpetuall imprisonment; The Lords having by an Edict, threatned death to all that resisted: Which done, all the Peeres and Prelates took their Oath; To be faithfull to this their Ordinance; and made all who would abide in the Kingdome, to swear they would stand to the triall of their Peeres; the Arch-Bishops and Bishops solemnely accursing all that should rebell against it. And *Richard* King of *Romans*, the Kings younger brother comming soone after into *England* to visit the King and his own Lands, the (*d*) Barons enforced him (according to his promise sent them in writing before his arrivall) to take this Oath, as soone as he landed, in the Chapter-house at *Canterbury*. *Hear all men that I* Richard *Earle of* Cornewal, *swear upon the holy Gospels, to be faithfull and forward to reforme with you the Kingdome of* England, *hitherto by the Counsell of wicked men so much deformed. And I will be an effectuall coadjutor to expell the Rebels and troublers of the Realm from out of the same. This Oath will I observe under paine to forfeit all my Lands I have in* England.

(*d*) *Matth. Par. p. 952, 953. Speed, p. 636.*

To such a high straine as this, did these Popish Parliaments, Prelates, Peeres, and Commons screw up their jurisdictions, to preserve themselves and the kingdome from slavery and desolation; whom *Matthew Paris* his continuer, for this service stiles, (*e*) *Angliæ Reipublicæ Zelatores*: the Zelots of the *English* Republicke. Neither is this their example singular, but backed with other precedents. In the second and third yeares of King *Edward* the second, (*f*) *Piers Gaveston* his great, proud, insolent, covetous, unworthy Favorite, miscounselling and seducing the young King, (from whom he had been banished by his Father) & swaying all things at his pleasure, the Peers and Nobles of the Realme, seeing themselves contemned, and that foraine upstart preferred before them all, came to the King, and humbly entreated him, *That he would manage the Affaires of his Kingdome, by the Counsels of his Barons, by whom he might not onely become more cautious, but more safe from incumbent dangers*; the King *Voce tenus*, consented to them, and at their instance summoned a Parliament at *London*, to which he commanded all that ought to be present, to repaire. Where, upon serious debate, they earnestly demanded of the King, *free liberty for the Barons to compose certaine Articles profitable to himself, to his kingdome, and to the Church of England*: The King imagining that they would order *Piers* to be banished, a long time denied to grant their demand, but at last, at the importunate instance of them all, he gave his assent, and *swore he would ratifie, and observe what ever the Nobles should ordaine*: The Articles being drawne up, and agreed by common consent, they propounded them to the King; and by *their importunity, much against his well-liking, caused him to ratifie them with his Seale, and to take his corporall Oath, to observe them*: Which done, the *Arch-bishop of Canterbury* with his *Suffragans*, solemnely *denounced a sentence of excommunication against al who should contradict these Articles*; which they caused to be openly read in *Pauls Church London*, in the presence of the *Prelates, Lords and Commons*

(*e*) *Histor. Angliæ, p. 553.*

(*f*) *Walsingh. Tpod. Neust. An. 1309, 1310. Hist. Ang. p. 70. to 77. S. p. 608. &c. with Holl-Stow, Grafton, How, Daniel, & others. Fox. Act. & Mon. vol. 1. Edvlt. p. 480, 481.*

Commons of the whole kingdom, the King being present; Among which Articles they demanded; *That Magna Charta, with other provisions necessary to the Church and Realme, should be observed, that the King as his Father had commanded, should thrust al Strangers out of his Court and kingdome, and remove ill Counsellours from him: That he would thenceforth order all the affaires of the kingdome by the Counsel of the Clergy and Lords; and begin no war, nor depart any where out of the kingdome without common consent.* The King consented to the Articles, and banished *Piers* into *Ireland*. No * sooner was the Parliament dissolved, but the King neglecting his Fathers solemne adjurations, together with his owne Oath, *never to reduce Piers*, sends for him back to his Court, marrieth him to the Countesse of *Gloucester*, his owne sisters daughter, sheweth him more favour then ever; *Resolving with himselfe to retaine this Gaveston, maugre* all his Earles, Barons, and for the love of him, to put his Crowne and life in perill, when time should serve: In which, whether the King or his Favourite shewed lesse discretion, it is not at the first easily determined; it being as unsafe for the one with so offensive behavior to affect immoderate shew and use of grace, as for the other, to the injury of his name and Realme, to bestow the same. But upon the Queenes complaint to the King of *France* her Brother, of *Piers* his insolence and prodigality, and on the *Barons* message to the King by common consent; *That he should banish* Piers *from his company, and observe the effect of the foresaid Articles, or else they would certainly rise up against him as a perjured person by a like vow* (*which speech seemed hard to the King, because he knew not how to want* Piers, *but yet discerned that more danger would spring up if he obeyed not the Lords Petition*;) *Piers* rather by the Kings permission, then good liking, did the third time abjure the Realme with this proviso; that if at any time afterward he were taken in *England*, he should be forthwith put to death as a perilous enemy to the Kingdome: yethe returning in Christmas to the King at Yorke, the Lords spirituall and temporall, to *preserve the Liberties of the Church, the kingdom, and remove this Viper*, elected *Tho.* Earle of *Lancaster* for their Generall, and sent honorable messengers to the King, requesting him, *to deliver Piers into their hands, or drive him from his company out of England, as being perswaded, while that King-bane breathed, peace could never be maintained in the Realme, nor the King abound in treasure, nor the Queene enjoy his love.* But the wilfull King would not condescend. Whereupon the Lords thus contemned and deluded, presently raise an Army, and march with all speed towards *Newcastle, not to offer injury, or molestation to the King*, writes *Walsingham*, (the case and purpose of the present Parliaments Army) *but that they might apprehend Piers himselfe, and judge him according to the Laws enacted.* Which when the King heard, he fled together with *Piers* to *Tynemouth*, and from thence to *Scarborough Castle*. Where *Piers* was forced to yeeld himselfe, upon condition to speake but once more with the king. And then carried to *Warwick* Castle, where he had his head strucke off, at the command, and in the presence of the Earles of *Lincaster, Warwicke, and Hereford*; as one *who had beene a subverter of the Lawes, and an open Traytor to the kingdome*, and that *without any judiciall proceedings or triall of his Peeres, though an Earle, and so deare a Favorite of the Kings.* Which bred *a lasting hatred betweene the King and his Nobles*: Who being afterwards charged by the King in Parliament with their contempt against him, in the spoiles committed by them at *Newcastle*, and wickedly killing *Piers*: they stoutly answered, *That they had not offended in any point, but deserved his royall favour, for that they had not gathered force against him, but against the publike enemy of the Realme*: And then obtained an *Act of* Pardon that *no man should be questioned for Gavestons returne or death*, printed in old (g) *Magna Charta*.

* Note the credit of Princes Regal promises and Protestations.

(g) Tolet. *Magna Charta, part.* 2. *f.* 50. *to* 57.

(b) *Walsin. Hist. p.* 90. *to* 110. *Ypod. Neust. p.* 195. *to* 111. *Speeds Hist. p.* 674. *to* 683. *See Fabian, Hollin. Graf. Thomas de la More, Higden, Caxton, Daniel,* in his life.

Not long after, this unfortunate King doting upon the two (b) *Spencers* as much

as ever he did on *Gaveston*, to whom they succeeded, not onely in *pride, rapine, oppression* and *intolerable insolencies*, but even in height of familiarity and power with the King. *So as they ruled and led the King as they pleased, in so much that no Earle, Baron, or Bishop was able to dispatch any thing in Court without their advise and favour*, which made them generally envied of all, because they domineered over all. The Lords and Barons hereupon, confederated together *to live and die for justice, and to their power to destroy the Traytors of the Realme, especially the two Spencers*: And meeting together with their forces at *Shirborne, Thomas of Lancaster* being their Captaine; they tooke an oath to prosecute their designe to the division of soule and body: Then they spoyled these *Spencers* and their friends goods, take their Castles by violence, waste their Manors through malice, slay their servants, utterly omitting the usuall wayes of Law and equity, and following the impetuousnesse of their minds they march on to Saint *Albons* with Ensignes displayed, and sent solemne messengers to the King then at *London*; *commanding him, not onely to rid his Court, but kingdome too, of the Traytors of the Realme, the Spencers, condemned in many Articles* (which they had framed against them) *by the Commonalty of the Realme, if he loved the peace of the Kingdome.* And they further required the King to *grant letters Patents of indempnity, to themselves and all such as had bore armes in their company, that they should not be punished by the King or any other for their forepast or present transgressions.* The King denyed both these demands at first, as unjust and illegall; swearing, that *he would not violate his Coronation Oath, in granting such a pardon to contemptuous Delinquents.* Whereupon running to their armes, they marched up to *London*, entred the City, and to avoyd danger, the *King* (through the *Queenes* and others mediation) condescended to their desires, passing an Act for the *Spencers* banishment, and the Barons indemnities; which you may reade in *ancient* (*h*) *Magna Chartaes.* Upon this the Barons departed, *neither merry nor secure, despairing of the Kings Benevolence; which made them goe alwayes armed, and to retire to safe places.* The King soone after, recalling the *Spencers*, reversed the sentence against them as *erroneous*, gathers an Army, encounters and defeates the Barons, and puts many of them to death by these *Spencers* procurements; *who not content with their bloud, procured also the confiscation of their goods and inheritances*: Whereupon getting into greater favour and power then before, puffed up with their good successe and new honours, they discontented not onely the *Nobles*, but *Queene* too; who going over into *France* with her sonne, the *Prince*, (*whose lives these favorites attempted*) She raised an Army beyond the Seas, and returning with it into *England*, most of the Lords and Commons resorted to her, and fell off from the King: who being destitute of friends and meanes, demanded assistance of the City of *London*, whose answer was; *That they would honour with all duty the King, the Queene and Prince, but would shut their gates against Foreiners and Traytors to the Realme, and with all their power withstand them.* And under the name of *John of Eltham* the Kings second sonne, whom they proclaimed Custos of the City & of the Land, they got the Tower of *London* into their possession, placing and displacing the Garrison and Officers therein as they pleased. The King hereupon (after he had *commanded all men to destroy, and kill the Queenes partakers, none excepted but her selfe, her sonne, and the Earle of Kent, and that none upon paine of death, and losse of all that they might lose, should aide or assist them, and that he should have a* 1000. l. *who did bring the Lord* Mortimers *head*) flies to *Bristol*, in the Castle whereof

(*h*) *Part* 2 *f.* 50.

of the *elder Spencer* was taken by the *Queenes* Forces, and without any formall tryall, *cruelly cut up alive, and quartered; being first at the clamours of the people, drawne and hanged in his proper armour upon the common Gallowes without the City:* After which the King forsaken of all his Subjects flies into *Wales* for shelter, where he was taken prisoner, and then by his Lords and Parliament *forced to resigne his Crowne to his son,* confessing, *That for his many sins he was fallen into this calamity, and therefore had the lesse cause to take it grievously: That he much sorrowed for this; that the people of the kingdome were so exasperated against him, that they should utterly abhorre his any longer rule and Soveraignty, and therefore he besought all there present to forgive and spare him being so afflicted:* Soone after he was murthered in *Barkly Castle:* And *so the sicknesse, and wounds which the Common-wealth sustained by his ill raigne, upon the change of her Physitian, recovered not onely health and strength, but beauty also and ornament,* writes *John Speed.*

After all this (*i*) King *Richard* the second in the ninth yeare of his reigne summoned a Parliament, wherein *Michael de la Pole* Earle of *Suffolke*, for cheating the King was *put from his Lord Chancellorship of* England *by the Parliament, and the Seale taken from him against the Kings will, and given to* Thomas Arundell *Bishop of* Ely; Whereupon both the Houses gave halfe a tenth and halfe a fifteene, *to be disposed of as the Lords thought fit, for the defence of the Realme.* The Parliament was no sooner dissolved, but the King recals *de la Pole* and other ill Counsellors to the Court, shewing them greater favour then before: In so much that at *Christmas*, the King made *de la Pole sit at his owne table, not in the usuall garment of a Peere, but of a Prince, out of a stomacke and hatred against the Peeres, whom from thenceforth he never regarded but feignedly, and then fals to plot the death of the Duke of* Glocester *and other Nobles, who opposed his ill Counsellors*; For which purpose he appoints a meeting at *Nottingham Castle, with a few persons generally ill-beloved, ill-advised, and ill-provided.* The course agreed upon by the King and that ill-chosen Senate was, first, to have the opinion of all the chiefe Lawyers; (who saith *Speed, seldome faile Princes in such turnes*) concerning certaine Articles of Treason, within whose nets they presumed the reforming Lords were; and if the Lawyers concluded those Articles contained Treasonable matters, then under a shew of justice they should be proceeded against accordingly. The Lawyers (who were the very men, which in the last Parliament, gave advice to the Lords to do as they did) now meeting were demanded: *Whether by the Law of the Land, the King might not disanull the Decrees of the last Parliament?* They joyntly answered, *he might, because he was above the Lawes*; (a most apparent errour) confessing; *that themselves had in that Parliament decreed many things, and given their judgement, that all was according to Law, which they acknowledged to be altogether unlawfull.* The King thus informed, appointeth a great Councell at *Nottingham*, and withall sends for the Sheriffes of Shires, to raise Forces against the Lords; who denyed, saying, *that they could not raise any competent forces or Armes against them, the whole Counties were so addicted to their favours*; and being further willed; *to suffer no Knights to be chosen for their Shires, but such as the King and his Councell should name*; they answered; *that the election belonged to the Commons, who favored the Lords in all, and would keepe their usuall customes*; (a good precedent for our present Sheriffes) whereupon they were dismissed. Then were the Lawyers and Judges (*Robert Tresilian* and his companions) called before the King, to determine the judgements of Treasons against the Lords

(*i*) *Walsingham hist Ang. p. 349 to 400 Tyed p. Neustr. p. 144 to 158. Speed. Hist. p. 747. to 762 Hollinsh. Grafton, Stow, Fabian, Caxton, Trussell, and others.*

Lords to be legall and to ſet their Seales thereto, which they did: Meane time the King and Duke of *Ireland*, ſent meſſengers to hire what Forces they could, *That they might ſtand with them if need were againſt the Lords in the day of battle:* * *Many of which anſwered, that they neither could nor would ſtand againſt the Lords, whom they knew for certaine intimately to love the King, and to endevour all things, ſtudy all things, doe all things for his honour: yet many out of ſimplicity, thinking themſelves to be hired, promiſed to be ready upon the Kings notice*: The Lords hearing of theſe proceedings were much ſadded; *being conſcious to themſelves of no guilt worthy the Kings ſo great indignation.* The Duke of *Gloceſter* ſent his purgation upon Oath by the Biſhop of *London*, to the King; who inclining to credit the ſame, was in an evill houre diverted by *De la Pole*. The Duke hereupon makes his and their common danger knowne to the reſt of the Lords: upon which they ſeverally gather Forces, that they might preſent their griefes to the King; How he favoured Traytors, not onely to them, but to the Publique, to the imminent danger of the Realme, unleſſe it were ſpeedily prevented. The King on the other ſide (by Trayterous Counſellours adviſe) ſought how to take them off ſingle, before they were united: but in vaine, by reaſon their party was ſo great. Meane time, ſome peaceable men procured, that the Lords ſhould repaire ſafe to *Weſtminſter*, and there be heard. Thither approaching, they are advertiſed by ſome, (who had ſworne on the Kings behalfe for good dealing to be uſed during the interim) that in the *Mewes* by *Charing-Croſſe*, a thouſand armed men (which without the Kings privity Sir *Thomas Trivet*, and Sir *Nicholas Brambre* knights, were reported to have laid for their deſtruction) attended in ambuſh. The King ſweares his innocency, promiſing ſafe conduct to the Lords if they would come; who thereupon came ſtrongly guarded, and would truſt no longer. The King ſitting in Royall State in *Weſtminſter* Hall; the Lords preſent themſelves upon their knees before him: and being required by the Lord Chancellor; Why they were in warlike manner aſſembled at *Haringgye Parke*, contrary to the Lawes? their joynt anſwer was: *That they were aſſembled for the good of the King and kingdome, and to weed from about him, ſuch Traytors as he continually held with him*; The Traytors they named to be *Robert de Vere*, Duke of *Ireland*; *Alexander Nevill*, Arch-biſhop of *Yorke*; *Michael de la Pole*, Earle of *Suffolke*; Sir *Robert Treſilian*, that falſe Juſticiar; Sir *Nicholas Brambre*, that falſe knight of *London*, with others: To prove them ſuch, *They threw downe their Gloves, as gages of challenge for a triall by the Sword.* The King hereupon replyed, as knowing they were all hidden out of the way; *This ſhall not be done ſo, but at the next Parliament* (which ſhall be the morrow after Candlemas) *all parties ſhall receive according as they deſerve.* And *now to you my Lords*; *How or by what authority durſt you preſume to levy Forces againſt me in this Land? did you thinke to have terrified mee by ſuch your preſumption? Have not I men and armes, who* (if it pleaſed me) *could environ and kill you like ſheepe? Certainely in this reſpect I eſteeme of you all no more than of the baſeſt Scullions in my kitchins.* Having uſed theſe, and many like high words, he tooke up his Uncle the Duke from the ground, where he kneeled, and bade all the other riſe. The reſt of the conference was calme, and the whole deferred till the next Parliament, then ſhortly to be holden at *Weſtminſter*. In the meane time (that the world might ſee, how little able the King was to equall his words with deeds) a Proclamation was ſet forth, in which the King (before any tryall) cleareth the Lords of Treaſon, names tho e perſons for unjuſt accuſers, whom the Lords had

* *Note this.*

before

before nominated. The Lords nevertheleſſe thought not good to ſever themſelves, but kept together for feare of the worſt; which fell out for their advantage: For the Duke of *Ireland* (with the Kings privity, ſuch was his falſe diſſimulation) had gathered a power in *Wales*, and *Cheſhire*: which they intercepting neare *Burford* and *Bablecke*, ſlew Sir *William Molineux*, leader of the *Cheſhire* men, and made the Duke to flye in great feare. Among the Dukes carriages was found (as the devill, or rather God would have it) certaine Letters of the Kings to the ſaid Duke, by which their Counſels were plainely diſcovered. The Lords hereupon march with ſpeed up to *London*, having an Army of forty thouſand men, the Lord Mayor and City doubtfull whether to diſpleaſe the King or Lords, upon conſultation receive the Lords into the City, and ſupply their Army with proviſions in the Suburbs; Which the King hearing of, ſeemed to ſlight them, ſaying; * *Let them lye here till they have ſpent all their goods, and then they will returne poore and empty to their houſes, and then I ſhall ſpeake with and judge them one after another.* The Lords hearing this, were exceedingly moved, and ſwore, *They would never remove thence, till they had ſpoken with him face to face.* And forthwith ſent ſome to guard the Thames, leſt the King ſhould ſlip out of their hands, and then ſcoffe at them. The King being then in the Tower, and ſeeing himſelfe every way encompaſſed, ſent a meſſage to the Lords, that he would treat with them; who thereupon deſired him, *That he would come the next day to Weſtminſter, where they would declare their deſire to him*: The King replyed, *That he would not treat with them at Weſtminſter, but in the Tower.* To which the Lords anſwered, *That it was a ſuſpicious place, becauſe traines might there be laid for them, and dangers prepared to deſtroy them*; Whereupon the King ſent word, *They ſhould ſend thither two hundred men or more, to ſearch and view all places, leſt any fraud ſhould lye hid.* Upon which the Lords repaired to the Tower, and in the Kings Bed-chamber, laid open to him briefly, all his conſpiracy, in cauſing them indirectly to be indicted; *They object to him his mutability, and underhand working, producing his own Letters to the Duke of Ireland, to raiſe an Army to deſtroy them; together with the French packets they had intercepted; whereby it appeared he had ſecretly practiſed to flye with the Duke of Ireland into France, to deliver up Callice to the French Kings poſſeſſion, and ſuch peeces as the Crowne of England held in thoſe parts; whereby his honour might diminiſh, his ſtrength decay, and his fame periſh.* The King ſeeing this, knew not what to doe, eſpecially becauſe he knew himſelfe notably depreſſed. At laſt craving leave, they left him confounded and ſhedding teares, yet upon condition, that he ſhould come to *Weſtminſter* the next day, where hee ſhould heare more, and treate of the neceſſary affaires of the kingdome; Which he promiſed to doe, retaining the Earle of *Darby*, to ſup with him. But before he went to bed (O the fickleneſſe of weake Princes, and faithleſſeneſſe of their royall words and Proteſtations!) ſome whiſperers telling him, that it was not decent, ſafe, nor honourable for the King to goe thither, he changed his reſolution. The Nobles hearing this, were very ſad, and diſcontented, and thereupon ſent him word, *That if he came not quickely according to appointment, they would chuſe them another King, who both would and ſhould obey the Counſell of his Peeres.* The King ſtrucke with this dart, came the next day to *Weſtminſter*, there attending his Nobles pleaſures. To whom (after few diſcourſes) the Nobles ſaid; *That for his honour, and the benefit of his kingdome, all Traytors, whiſperers, flatterers, evill inſtruments, ſlanderers, and unprofitable perſons ſhould be baniſhed out of his Court and company, and others ſubſtituted in their*

* Note the perill and policy of protracting.

places,

places, who both know how, and would serve him more honourably and faithfully. Which when the King had granted (though with sorrow) they thought fit that *Alexander Nevill Archbishop of Yorke, John Fordham, Bishop of Durham,* with sundry other Lords, knights, and Clergy men should be removed and kept in strait prison, to answer such accusations as should be objected against them the next Parliament. Whereupon they were apprehended forthwith and removed from the Court: After the feast of *Purification,* the Parliament (much against the Kings will, who would have shifted it off at that time) began at *London.* The first day of the Session, *Fulthorpe,* and all the rest of the Judges were arrested, *as they sate in judgement on the Bench;* and most of them sent to the Tower: *for that having first over-ruled the Lords with their Counsels and direction, which they assured them to be according to Law, they afterward at Nottingham, gave contrary judgement to what themselves had determined formerly. Tresilian* the chiefe Justice prevented them by flight, but being apprehended and brought backe to the Parliament in the forenoone, had sentence to be drawne to Tiburne in the afternoone, and there to have his Throate cut, which was done accordingly.

* *Graft. p* 348, 349. 150, 151. The King seeing these proceedings, by advise of his ill Counsellors,* absented himselfe from his Parliament, and sent *Michael de la Pole* then Lord *Chancellor, to demand foure fifteenes in his name, of the Commons, for that without lesse he could not maintaine his estate and outward warre.* To which the body of the Parliament made answer; *that without the King were present, they would make therein no answer; and that unlesse the King would remove him from his Chancellorship, they would no further meddle with any Act this Parliament.* The King upon this sent to the Commons, *that they should send to Eltham,* (where he then lay,) 40. *of the wisest and best learned of the Commons, who in the name of the whole House should declare unto him their minde.* Upon which message the House were in more feare then before; for there went a talke, *that the King intended to betray divers of them, which followed not his minde, either that way, or at a banquet appointed to be made purposely at* London, *if* Nicholas Exton *the Mayor of* London *would have consented thereunto; at which time the Duke of* Glocester *should have beene taken.* Wherefore the Lords and Commons assembled together, agreed with one assent, *that the Duke of Glocester, and Bishop of Ely, should in the name of the whole Parliament be sent to the King to Eltham;* which was done, and the King well pleased that they should come. When they came into his presence they most humbly saluted him, and said. "Most high "and redoubted Soveraigne Lord, the Lords and Commons of this your Parlia- "ment assembled, with most humble subjection unto your most royall Majesty, de- "sire your most gracious favour; so that they may live in tranquillity and peace un- "der you, to the pleasure of God and wealth of the Realme. On whose behalfe we "also shew unto you, that one old statute and laudable custome is approved, which "no man can deny; That the King our Soveraigne Lord may once in the yeare law- "fully summon his high Court of Parliament, and call the Lords and Commons "thereunto, as to that which is the highest Court of this Realme: In which Court "all equity and justice must shine, even as the Sunne when it is at the highest, where- "of poore and rich may take refreshing: where also must be reformed all the op- "pressions, wrongs, exactions and enormities within the Realme, and there to "consult with the wise men for the maintenance of the Kings estate. And if it might "be knowne that any persons within the Realme or without intended the contrary,

there

"there also must be devised how such evill weeds might be destroyed. There also must "be studyed and foreseene, that if any charge doe come upon the King and his "Realme, how it may be well and honourably supported and sustained. Hitherto "it is thought by the whole Realme, that your Subjects have lovingly demeaned "themselves to you, in ayding you with substance to the best of their powers; and "they desire to have knowledge, how and by whom these goods be spent. One thing "remeth yet to declare in their behalfe unto you: * how that by an old Ordinance, "they have an Act, if the King absent himselfe forty dayes not being sicke, but of "his owne minde (not heeding the charges of his people, nor their great paines) "will not resort to his Parliament; they then may lawfully returne home to their "houses: And now Sir, you have beene absent a longer time, and yet refuse to come amongst us; which greatly is our discomfort: (And our Parliaments present case.) To this the King answered by these words: *Well, we doe consider that the people and Commons goe to rise against us; wherefore we thinke we can doe no better than to take ayde of our Cosin the French King, and rather submit us to him, than to our owne Subjects.* The Lords answered: *Sir, that Counsell is not best, but a way rather to bring you into danger. For it is well knowne, that the French King is your ancient enemy, and your greatest adversary: and if he set foot once within your Realme, he will rather dispoyle you, invade you, and depose you from your estate Royall, than put any hand to helpe you, &c. And as that King cannot be poore that hath rich people; so cannot he be rich that hath poore Commons. And all the inconveniences be come by the evill Counsell which are about you. And if you put not your helping hand to the redresse of the premises, this Realme of England shall be brought to nought and utter ruine, which clearely should be laid to your default, and in your evill Counsell: Seeing that in the time of your Father, this Realme throughout all the world was highly esteemed, and nothing ordered after these wayes. Wherefore we be sent unto you to exhort you to sequester all such persons as might be the occasion of ruine either of you or else of your Realme.* By these good perswasions the King was appeased, *and promised within three dayes after to come to the Parliament, and to condescend to their Petitions; And according to his appointment he came.* Where soone after *John Fordham* Bishop of *Durham*, was discharged of the Treasurourship, and the Bishop of *Hereford* set in his place; * *De la Pole* was put from his Chancellourship for divers crimes, frauds, briberies and treasons, by him committed, to the prejudice of the King and his Realme, committed to the Tower, and fined twenty thousand Markes to the King, in relieving of the Commons: Divers other Iudges, knights, & Delinquents of all sorts were condemned, & executed, others banished and their States confiscated; others put out of Office by this Parliament, as you may read in our Historics, and in the (*k*) *Statutes at large*: in which Statutes the mischievous effects of these evill Counsellors to King, kingdome, and people are at full related, whereby the King and all his Realme were very nigh to have beene wholly undone and destroyed: the Lords raising of Forces against them resolved to be lawfull; and these traytorous Delinquents made uncapable of any pardon; (*l*) and their raising of Armes against the Parliament and kingdome, (though with the Kings owne consent and his command) declared and enacted to be high Treason. These proceedings ratified and assented to in Parliament by the King, *much against his will*, wrought an intolerable secret hatred and desire of revenge in his heart against the Lords, which for want of power he concealed neare ten yeares space: but in the twentyeth yeare of his Reigne, being somewhat elevated in his spirit with a

* *Note.* The King should be present in Parliament once in forty dayes.

* *Walsing. Hist. Ang. p.* 145, 147. *Ocsam p.* 351, 353.

(*k*) 10 *R.* 2 *c.* 1 11 *R.* 2 *c.* 1, 2 3, 4, 5, 6. 21 *R.* 2. 2, 3, 12.

(*l*) See the Records of this Parliament published by order of both Houses, *Aug.* 25. 1642.

rumour *that he should be elected Emperour*; he suddenly apprehended the Duke of *Gloceſter*, the Earles of *Warwicke* and *Arundell* (the chiefe ſticklers in the premiſes) committing them to ſeverall priſons: *And to blinde the peoples eyes, leſt they ſhould riſe up in Armes to reſcue theſe Lords*; the King ſent out a feigned Proclamation, (which he cauſed to be proclaimed throughout the Realme) *that theſe Lords were apprehended only for new Treaſons committed againſt him, for which he would proſecute them in the next Parliament, and not for the old treſpaſſes*: After which he *proclaimes thoſe Lords Traytors.*

(*m*) *Graf. p.* 329 *&c.* Mr. *Saint Johns Speech*, 1640. *p.* 33. 1 *H.* 4. *No.* 21. 21. 48

Which done he ſummoned a (*m*) Parliament at *Weſtminſter*, to this Parliament the King commanded to come all *ſuch as he had beſt confidence in, omitting the reſt*; and the Knights *were not elected by the Commons, as cuſtome required they ſhould be, but by the Kings pleaſure*; yea, *he put out divers perſons elected, and put in other in their places to ſerve his turne*; which was one Article objected againſt him when he was depoſed. Againſt the time of this Parliament, the King received a guard of 4000. Archers, all *Cheſhire* men, as if he would have gone in battle againſt enemies, ſo that divers came armed to the Parliament out of feare. Theſe *Cheſhire* men were rude and beaſtly people, and ſo proud of the Kings favour, (*n*) *that they accounted the King to be their fellow, and ſet the Lords at nought*, though few of them were Gentlemen, but taken from the Plough and other Trades. After theſe ruſticall people had a while Courted, they grew ſo bold, *that they would not let neither within the Court nor without to beat and ſlay the Kings good Subject*, (as the Cavaliers doe now) *and to take from them their victuals at their pleaſure, paying little or nothing for them, and to raviſh their wives and daughters*: And if any man preſumed to complaine to the King of them, he was ſoone rid out of the way, no man knew why, nor by whom, ſo that in effect they did what they liſted. In this Parliament the King *having made the Speaker, and a great part of mercinary, proud, ambitious men of the Commons Houſe to be of his ſide, to act what he required them*; *he then prevailed likewiſe with the Upper Houſe, firſt with the Prelates, then with the Lords, more out of feare of him, then any reaſon*; by meanes whereof the Commiſſion, Charters of pardon, and Acts made in Parliament in the 10. and 11. yeares of his Reigne were quite revoked and declared voyd in Law, *as being done without authority and againſt the will and liberty of the King and of his Crowne*: And withall they *declared the Judges opinions* for which they were condemned in that Parliament, *to be good and lawfull, and attainted the ſaid impriſoned Lords of high Treaſon, and confiſcated their lands.* The two Earles hereupon were beheaded, and the Duke (by reaſon of his popularity) ſent over to *Callice*, and there by *Hall* and others *ſmothered*, onely for their former actions; which done, the King adjourned the Parliament to *Shrewsbury* where he ſubtilly procured an (*o*) Act to paſſe by common conſent, *that the power of the Parliament ſhould remaine in ſeven or eight perſons, who (after the Parliament diſſolved) ſhould determine certaine petitions delivered that Parliament, and not diſpatched.* By colour whereof, (*p*) *Thoſe Committees proceeded to other things generally touching the Parliament, and that by the Kings appointment, in derogation of the ſtate of the Parliament, the diſcommodity and pernicious example of the whole Realme*: *And by colour and authority hereof, the King cauſed the Parliament Rols to be altered and defaced, againſt the effect of the foreſaid grant.* After which he much vexed and oppreſſed his people with divers forced Loanes, Oathes, Impoſitions, and oppreſſing Projects to raiſe money, ſeeking to trample them under his feet, and deſtroy the Realme, and tooke all the Jewels of the Crown with him into *Ireland*, without the kingdomes conſent. Which rendered him ſo odious

(*n*) As the Cavaliers do now.

(*o*) 21 *R. c.* 12

(*p*) 21 *R.* 2. *c.* 16. 20. 1 *H.* 4. *c.* 3. *Walſin. hiſt. Ang. An.* 1398. *p.* 394. *Grafton, & Holinſhed.*

odious to his people, that *Henry* Duke of *Lancaster*, landing in *England*, the *whole kingdome came flocking to his ayde, so that he had an Army of* 60000. *men in a short time; who vowed to prosecute the Kings ill Counsellours.* Whereupon King *Richard* returning out of *Ireland*, hearing of the Dukes great Army assembled against him, and knowing that they would rather dye than yeeld, out of their hatred, and feare of him, he dismissed his Courtiers, hiding obscurely in corners till he was apprehended, and by a Parliament summoned in his name (though against his will) judicially deposed for his misgovernment.

Among the Articles exhibited against him in Parliament for his evill government, for which he was by sentence dethroned, these are remarkable. First, * *That hee wastfully spent the Treasure of the Realme, and had given the possessions of the Crowne to men unworthy, by reason whereof daily new charges more and more, were laid on the neckes of the poore Commonalty. And when divers Lords were appointed by the high Court of Parliament to commune and treate of divers matters concerning the Common-wealth of the same, which being busie about those Commissions, he with other of his affinity, went about to impeach them of high Treason, and by force and threatning, compelled the Justices of the Realme at* Shrewesbury, *to condescend to his opinion, for the destruction of the said Lords*; In somuch that hee began to raise warre against John Duke of Lancaster, Thomas Earle of Arundell, Richard Earle of Warwicke, and other Lords, contrary to his honour and promise. + *Graft. p.* 400 401, 402. &c. *Trussel. p.* 45, 46 47.

Item, *He assembled certaine* Lancashire *and* Cheshire men, *to the intent to make warre on the foresaid Lords; and suffered them to rob and pillage without correction or reproofe.*

Item, *Although the King flatteringly, and with great dissimulation made Proclamation throughout the Realme, that the Lords before named, were not attached for any crime of Treason, but onely for extortions and oppressions done in the Realme, yet he laid to them in the Parliament, rebellion and manifest Treason.*

Item, *He hath compelled divers of the said Lords servants and friends, by menace and extreame paines, to make great fines to their utter undoing. And notwithstanding his pardon to them granted, yet he made them fine of new.*

Item, *That he put out divers* * *Sheriffes lawfully elected, and put in their roomes, divers of his owne Minions, subverting the Law, contrary to his Oath and Honour.* * *Note.*

Item, *For to serve his purpose, he would suffer the Sheriffes of the Shire to remaine above one yeare or two.*

Item, *He borrowed great sums of money, and bound him under his Letters Patents for repayment of the same, and yet not one penny paid.*

Item, *He taxed men at the Will of him and his unhappy Counsell, and the same Treasure spent in folly, not paying poore men for their victuall and viand.*

Item, *He said, That the Lawes of the Realme were in his head, and sometime in his brest, by reason of which phantasticall opinion, he destroyed Noble men, and impoverished the Commons.*

Item, *The Parliament setling and exacting divers notable Statutes for the profit and advancement of the Commonwealth, he by his private friends and solicitors, caused to be enacted;* * *That no Act then enacted should be more prejudiciall to him, than it was to any of his Predecessors, though with proviso he did often as he listed, and not as the Law meant.* * Such a kind of proviso was endevoured to be added to the Petition of Right, 3 *Caroli*

Item, *That he at his going into* Ireland, *exacted many notable summes of money, besides Plate and Jewels, without Law or custome, contrary to his Oath taken at his Coronation.*

Item, *That without the assent of the Nobility, he carried the Jewels, Plate, and Treasure of the kingdome over the Sea into* Ireland, *to the great impoverishing of the Realme. And all the good Records for the Common-wealth, and against his extortions, he privily caused to be imbezeled and conveyed away.*

Item, *When divers Lords and Justices were sworne to say the truth for divers things to them committed in charge both for the honour of the Realme, and profit of the King, the said King so menaced them with sore threatnings, that no man would, or durst say the right.*

Item, *He most tyrannically and unprincely said, that the lives and goods of all his Subjects were in the Princes hands, and at his disposing.*

Item, *He craftily devised certaine privie Oathes, contrary to the Law, and caused divers of his Subjects, first to be sworne to observe the same, and after bound them in bonds for the firmer keeping of the same, to the great undoing of many honest men.*

(*q*) 1 *H* 4 *c.* 1. 2. 3. 4

(*r*) *Walsin. hist. Angl. p.* 416. 417. *Ypodig. p.* 168. 170. *Pol. l.* 8. *c.* 10. *Caxton p.* 430 *Hal. Chr. par.* 1. *f* 25 *Hol. p.* 529. *Speed, p.* 775. *Martin Fab Grafi. and others Fox Acts & Mon. vol.* 1. *p.* 676, 677, 678. *Trussell. p.* 74 75.

(*s*) *Spee. p.* 486 *Hunting lib* 8.

(*t*) *Walsing. hist. Angl. p.* 258. *to* 281. *Speed p.* 849. *&c.* 734. *&c.*

(*u*) *Speed p.* 1032 *to* 1049. 1112, *to* 1120. *See Hall. Grafi. Hollinsh. Howes, Martin.* in the lives of *H.* 8. *Ed.* 6. and *Q. Eliz.*

(*x*) *Walsin. hist. Ang. p.* 36 37, 38, 39, 40 41, 42, 44 48. *Ypodigma Neust p.* 83, 84, 85, 86, 97 *Cokes Magna Charta, p.* 559. *to* 560.

Which how parallel they are to the late and present Court Practises, and Doctrines of our times, let wise men determine. The King being thus Judicially dethroned in Parliament, *Henry* the fourth by the same Parliament, (which continued notwithstanding *Richards* deposition who summoned it) was created King, who in the (*q*) first Parliament of his Raigne, reversed, and annulled as illegall, the Parliament of 21 *Richard* 2. with all its Acts, Circumstances and dependants; and revived that of 11 *Richard* 2. in all points, as made for the great honour, and common profit of this Realme. To these I might adde the (*r*) Rebellious insurrections of *Richard Scroope*, Arch-bishop of *Yorke*, the Earle of *Northumberland*, and their Complices, against King *Henry* the fourth, *Anno* 1405. to reforme the State and government, relieve the Church and Common-weale, and Depose King *Henry* in and by a forced Parliament. The (*s*) insurrection of the *Popish Nobles against King* Stephen, *for violating his Oath, touching Forests, and other immunities of Church and Common-wealth, which they would force him to confirme*; the severall (*t*) *insurrections of* Jacke Cade, Jacke Straw, Wat Tyler, *and* their Popish Vulgar rabble, *to force their King to call Parliaments, to alter and repeale old Lawes, enact new, displace offensive great Officers, promote new ones of their nomination, to ratifie what propositions they required, and subvert the government of the Realme*: with the (*u*) severall *Rebellions* of the *Popish Lincolneshire and Yorke-shire men*, under Doctor *Mackarell*, a Monke, and some men of quality in *Henry* the eighth his raigne; Of the *Cornish men, Norfolke men, Kent*, and others in *Edward* the sixth his Rule; of the *Popish Earles of Northumberland, Westmorland*, and other *Northerne Papists* in Queene *Elizabeths* dayes, *by force of Armes to compell these severall Princes to summon Parliaments to repeale all Lawes against Masse and Popery, and for the establishment of the Protestant Religion, with other Acts concerning the government of the Common-wealth, to enact divers new Lawes and propositions, which they demanded, to remove great Officers and privie Counsellors from their places, and the like.* All which transcend the Acts and proceedings of this or any other our Protestant Parliaments or subjects, being done without any preceding Order or resolution of both Houses, representing the whole kingdome, and against the generall consent of the people. But I shall conclude with one ancient precedent more, in one of our best Kings reignes, In 25 E. 1. (*x*) *The Lords and Commons in Parliament grievously complained and Petitioned to the King against divers taxes, tallages, and prisages wherewith they were oppressed by him, to the great impoverishing of the Realme; against the violation of* Magna Charta, *the Charter of the Forest, the imposition upon Wools, and their summons*

to goe with him into Flanders, to which they were not bound by Law. The King excusing these taxes, *by reason of his necessity to maintaine the warres*, and giving them a dilatory answer; the *Earle Marshall*, and *Hereford* withdrew themselves from Parliament, and with their complices, *commanded the Barons of the Eschequer not to levie the eighth penny of the people, granted to the King at Saint Edmonds*; and induced the Citizens of *London* to joyne with them to *recover their Liberties.* Whereupon the King sending to them for peace, they would condescend to no peace but on these termes; *That the King should confirme Magna Charta, and Charta de Foresta, with the other Articles to them annexed; that he should exact and take no aides, taxe, or tallage from the Clergy or Commons without their common consent in Parliament, and that he should remit all offences to these Earles, and their confederates*, all which the King ratified by his (*y*) Charter at large, by his oath, and by a solemne excommunication of the Bishops twice every yeare, of all those who should transgresse this Charter of his; For which the Laity gave him the ninth, and the Clergy the tenth penny of their goods. And because this confirmation was made in *Scotland*, the Kings, and divers others promised for him, *that he should confirme it when he came into England*, which they pressing him to doe in a Parliament at *London*, in the 27. yeare of his reign: after some delaies, he ratified it with this addition in the close; *saving the right of our Crowne*, which when the Lords heard, *they departed home in great discontent*; but the King re-summoning them at *quindena Paschæ*, *granted all things absolutely according to their desire*, committing the per-ambulation of the Forests throughout *England* to three Bishops, three Earles, and three Barons, to settle their bounds according to God and justice: which not being speedily executed, but neglected (the King having purchased a dispensation of his oath, wherewith he had ratified his foresaid Charter, from the Pope) hereupon the King holding a Parliament at *Stamford*, the 29. of his reigne, *the Lords and Barons repaired thither with great store of horses and Arms, with a purpose to extort a full execution of the Charter of the Forests hitherto deferred:* upon which the King, considering their earnestnesse and importunity, *condescended to their will in all things.*

(*y*) *Articuli super Chartas.*

Sixthly, Parliaments, Lords and Prelates, in former times have affirmed; *that when a Parliament was once met together by lawfull summons, it might not be dissolved or discontinued againe at the Kings meere pleasure, till all the publike affaires for which it was called were dispatched, all grievances redressed, and all Petitions exhibited therein, fully heard, and answered*; agreeable to the resolution of the great (*a*) *Councels of Basil, Constance, and divers Popish* Writers, that a generall Councell once lawfully summoned by the Pope and met, cannot be dissolved by him againe at his pleasure, without the Councels consent, before all the Churches affaires be therein setled: Upon which resolution these Councels continued together and deposed sundry Popes notwithstanding their Buls to dissolve them, to keepe themselves in their haires.* This is apparent; first by the Ancient Treatise, *Of the manner of holding Parliaments in England*: which informes us; *That the first day of the Parliament, publike Proclamations ought to be made in the City or Towne where the Parliament is kept; That all those who would deliver Petitions or Bils to the Parliament, should deliver them in a certaine time. That the Parliament should not depart so long as any Petition made thereto hangeth undiscussed or undecided, or at the least to which there is not made a determinate answer: the Kings Majesty being desirous of his grace and favour to give the Subject redresse of any injury, not to suffer his people to goe unsatisfied. Hence depar[t]ure of the Parliament* OUGHT TO BE *in such manner. First*, IT OUGHT TO

(*a*) *Surius Concil. Tom. 4 p. 103. &c. Fox Acts & Mem. vol. 1. Edit. ult. p. 879 &c.*

* *Joan White his way, &c. Sect 3. n. 30. p. 102.*

TO BE *demanded, yea and publickely proclaimed in the Parliament, and within the Pallace of the Parliament, whether there be any that hath delivered a Petition to the Parliament, and hath not received answer thereto? If there be none such, it is supposed that every one is satisfyed, or else answered unto at the least, So far forth as by Law it may be. And then all may depart.* Hence it was, that in 21 *R.* 2. *c.* 16, 17, 18, 19. Divers Petitions not read nor answered in Parliament, by reason of shortnesse of time, and not determined sitting the Parliament, were by special Acts of Parliament referred to divers Lords and Commons, to examine, answer, and plainely determine all matters contained in the said Petitions, as they should thinke best by their good advise and discretion; even out of Parliament; which they heard and determined accordingly, and made binding Acts thereupon, as appeares by the Statutes themselves. This Doctrine was very well knowne to *King John*, *Henry* the 3. *Edward the* 2. *Richard* the 2. *Henry* the 6. and *Edward* the 4. the Parliaments which opposed, and deposed most of them, sitting and continuing sitting, both before and after their deposing, sore against their wills, as the fore-remembred histories manifest; else no doubt they would have broken up all these Parliaments at their pleasure, and never permitted such Acts and Judgements to passe against themselves, Favorites, ill Counsellours, pretended Prerogatives, had they lawfull power to dissolve them, summoned in their names, or the Parliaments actually determined by their depositions, or resignations, as we find they did not, and none ever yet held they did. King *Richard* the 2. fearing the losse of his Crowne, or some restraints by Lawes, in the 11. yeare of his Reigne, proposed this question among others, to his Judges at *Nottingham* Castle; which (for ought I finde) was never doubted before. (*b*) *Whether the King whensoever pleaseth him, might dissolve the Parliament, and command his Lords, and Commons to depart from thence or not?* Whereunto it was of one minde answered, *That he may: And if any would proceed in the Parliament against the Kings will, he is to be punished as a Traytor.* For which opinion and others, some of these Judges and Lawyers (as *Tresilian* and *Blake*) were condemned of high Treason the next Parliament, 11 *R.* 2. drawn upon a Hurdle to *Tyburne*, and there executed, as Traytors to the King and Commonwealth: others of them (who delivered their opinions rather out of feare of death, and bodily tortures than malice) were yet condemned as Traytors, and banished the kingdome, onely their lives were spared. True it is, that the *packed and over-awed Parliament of* 21 *R.* 2. (terrifyed by the Kings unruly great Guard of *Cheshire* Archers forementioned) 21 *R.* 2. *c.* 12. being specially interrogated by the King, how they thought of these answers of the Judges, said; *That they thought they gave their answers duely and faithfully, as good and lawfull liege people of the King ought to doe*: But yet the Parliament of 1 *H.* 4. *c.* 3, 4. repealed this Parliament of 21. *R.* 2. with all its circumstances and dependents, revived the Parliament of 11 *R.* 2. with the judgements and proceedings, given against these trecherous temporising Judges, as a thing made for the great honour and common profit of the Realme. Besides, the (*c*) *Statutes of King Alfred, and Edward the* 3. (which enact, *that a Parliament shall be holden once every yeare, and oftner if need be, for redresse of mischiefes and grievances which daily happen*) *strongly intimate*, that if a Parliament ought in Law to be called as often as neede is, of purpose to redresse the Subjects grievances and mischiefes; then it ought not in point of Law to be dissolved, till these grievances, and mischiefes be redressed; else the summoning of it would be to no purpose, and bring a great trouble

(*b*) See 21 *R.* 2 *c.* 12.

(*c*) *Cooke* 9. *Rep. f.* 1. in the Epistle. 4 *E.* 3. *c.* 14. 36 *E.* 3. *c.* 10.

trouble and charge to the whole kingdome, without any benefit at all; Moreover, the King by his Oath, is bound to doe equall justice and right to all his Subjects in all his Courts of Justice: In *Magna Charta c.* 29. he makes this Protestation; *We shall deny nor deferre to no man, either Justice or Right: and by sundry other* (*d*) *Acts, all the Kings Judges are sworne and commanded, to doe even Law and execution of right to all his Subjectes rich or poore, without having regard to any person, and without letting or delaying to doe right for any Letters, Writs, or Commandements that shall come to them from the King or any others, and shall doe nothing by vertue of them, but goe forth to doe the Law, and hold their Courts, and Processes where the Pleas and matters be depending before them, notwithstanding, as if no such Letters, Writs, or Commandements, were come unto them.* The makers therefore of these Oathes and Lawes (in dayes of Popery) and the Parliaments of 2 *E.* 3. *c.* 8. 14 *E.* 3. *c.* 14. 1 *R.* 2. *c.* 2. 11 *R.* 2. *c.* 9. which enact, *That it shall not be commanded by the great seale or little seale, to delay or disturbe common right, and though such commandments doe come, the Justices shall not therefore leave to doe right in* ANY POINT, *that Justice and right be indifferently ministred to every of the Kings Subjects*: did certainely beleeve, that the King neither by his great nor privy seale, nor by Writ or Letter could without just or lawfull cause assigned, prorogue or adjourne the Terme or sitting of any Courts of Justice, much lesse prorogue or dissolve his highest Court, and grand *Councell of the Realme*, the Parliament, or disable them to sit to redresse the kingdomes and Subjects severall grievances, or secure the Realm from danger; Which if he might lawfully doe at his pleasure, without the Houses joynt assents, there would necessarily follow, not onely a deferring and deniall, but likewise a fayler of Justice in the highest Court of Justice; which these Acts disable the King (who is so farre inferior to the Law, that he cannot so much as delay the smallest proceedings of it in any Court or Session, by his supreame power, by any meanes whatsoever) to effect in his meanest Courts, much lesse then in the greatest; from whence the subversion of Lawes, Liberty, Justice, and the whole Realme would ensue. If any therefore cavill at the *Act for continuance of this Parliament, till both Houses shall agree to adjourne or dissolve it*; or at the *Bill for Triennial Parliaments, which when they meete, shall not be dissolved without their consents for fifty dayes space next after their first meeting*: Let them now learne, that this is no Innovation, nor encroachment on the Crowne, but an ancient Priviledge of Parliament, both claimed, practised, and resolved in times of Popery, in an higher degree then now it is. And thus you see how in these particulars, the Popish Parliaments, Prelates, Lords and Commons in former times, have claimed and exercised farre greater Priviledges and Jurisdictions, than this or any other Protestant Parliament hath hitherto claimed or practised: which I hope, will for ever silence the clamourous tongues of all ill Counsellours, Courtiers, Royalists, Malignants, Papists, and Cavaliers against the present Parliament, of whose highest (yet moderate) proceedings, themselves alone have beene the occasions, and therefore (of all others) have least cause to complaine against them.

(*d*) 18 *E.* 3. Stat. 3. 20 *E.* 3. *c.* 1.

Answ. 3. The Parliament and kingdome proved to be above the King.

BUT to returne againe to the first grand Objection. Thirdly, I answer, that the High Court of Parliament, and whole kingdome which it represents, may in divers respects be truely and properly said, *to be the Highest Soveraigne power of all others, and above the King himselfe*: which because it may seeme a dangerous *paradox*,

and tends much to the vindication both of the *Priviledges, Honour, and Jurisdictions of our High Court of Parliament*, (now so much undervalued, because not really known to most) and to the justification of the proceedings in this present Parliament, which many out of ignorance and malice so much declaime against both by word and writing, in a most licentious manner; I shall take a little liberty to demonstrate the truth of it, by such convincing reasons and Authorities, as no rationall man (I hope) shall be able to contradict, but must necessarily submit to.

(e) See *Cromptons jurisdiction of Courts Tit. Parliam. Brooke Tit. Parl. Holin. Descript of Eng. c. 8. p. 173. Chro. of Ireland, p. 120. to 130. Sir Tho. Smith Commonweal. of Engl. l. 2. c. 1, 2, 3. Cowel & Mirsh. Tit. Par. Cam. Brit. p. 177*

First, it is undeniable that (e) the *Court of Parliament hath a lawfull power, to question all the Kings Patents, Charters, Commissions, Proclamations, Grants, Warrants, Writs, and Commitments whatsoever, whether they be Legall; yea to cancell or repeale them in case they be illegall, mischievous, or onerous to the Subject, not onely without but against the Kings consent, and mandate to the contrary*; as appeares by infinite precedents in this and all former Parliaments, the scourges of Monopolists, Patentees and Projectors, the Pests of the Commonwealth. The like power have all other Courts of Justice within the kingdome in some degree, when such Charters and Writs of the King are brought judicially before them, because they are Courts of the *Law, to which the King and all his Actions are and must be subject.* Now that which can thus question, cancell, disanull, revoke the Kings owne Royall Charters, Writs, Commissions, Patents, &c. though ratified with the Great seale and regall power, even against his will, must certainely be a Soveraigne power and Authority, which in point of Law and Justice is superiour to the King. This is *Bractons* resolution, *l. 2. c. 16. f. 34. a*, and *Fletaes l. 1. c. 17.* Where they affirme, the *Law and Parliament to be above the King*, because they may censure, judge, and rescinde the Kings Acts & Charters, legally and judicially, even against his personall, though not legall Will, which is the Law.

Secondly, It is unquestionably true, that in all cases of difference betweene the King, and all or any of his Subjects, though they concerne the *Kings Prerogative* and the highest branches thereof, the Parliament is the supreamest and most proper Judge, and its resolution (from which there is no appeale to any higher tribunall) shall finally binde not onely all the Subjects, but the King himselfe, notwithstanding his owne personall dissent. This is manifest by the many late resolutions given in Parliament against sundry *Patents, Commissions, Writs, Charters, Impositions, Loanes, Shipmoney, Forest-Bounds, Marshall Law, Pressing and Billeting Souldiers, Imprisonment by speciall Command of the King or his Privy Counsell, Tonnage and Poundage, Knight-hood and Taxes, the Commission of Array*, and the like, which obliege both King and Subject; the *King in receiving justice, in such cases, being subject to the Law as well as the meanest of his Subjects*; as (f) *Bracton* truely avers, against all Royalists mistakes. Now that which can thus finally conclude and binde the King himselfe, even *volens nolens*, in cases of highest concernment, entrenching farthest upon his Prerogative Royall, must doubtlesse be the most Soveraigne power, Superiour to the Kings. And in this sence every Court of Justice; whose just resolutions, and every petty Jury, whose upright verdicts obliege the King (because warranted by the Law which is *Paramount* the King (as *Bracton*, (g) *Fleta*, (h) *Fortescue*, (i) *King James*, (k) *Edward the Confessor*, yea and (l) *Aristotle*, resolve) may be truely said *to be above the Kings person*, which they binde; but not above the Parliament, which by its superlative power may examine *all* (m) *judgements and verdicts* in other Courts by way of error, *or appeale, and reverse them if there be cause*, when the King in person

(f) *Rex in justitia recipienda minimo de regno suo comparatur: minimus esse debet vel quasi in judicio suscipiendo, Bracton, l. 1. c. 8. f. 5. b & l. 3. c. 9 f. 107.*
(g) *li. 1. c. 5. 17.*
(h) *Cap. 9. to 15*
(i) *Speech in Parliam. 1609*
(k) *In his Laws in Fox Acts & Mon. Edit. vol. 1 p. 214.*
(l) *Polit. l. 3. c. 10, 11, 12.*
(m) *1 H. 7. 1. Br. Parlia. 92. Ash. tit. 65, 67.*

son cannot by law examine or reverse them, but onely in his Courts of Justice, by his Judges.

Thirdly, *Parliaments oft times doe, and may as they see cause, enlarge the Kings Prerogative and Royall power in sundry particulars, in which the King had no such jurisdiction before these Acts*; witnesse the Statute *de Prærogativa Regis*, The notable Parliament Roll of 1 *H.* 4. *num.* 108. Where the Commons in Parliament grant the King, that he shall be in as GREAT ROYALL LIBERTY as his Noble Progenitors were before him: having formerly made the like Grant to King *Richard* the second, who perverted it to the altering of the Lawes in many things, as appeares by this Roll. 25 *H.* 8. *c.* 19, 20, 21. 26 *H.* 8. *c.* 1, 3. 31 *H.* 8. *c.* 9. 34, and 35 *H.* 8. *c.* 23. 27 *H.* 8. *c.* 15. 28 *H.* 8. *c.* 7. 17. 3 & 4 *E.* 6. *c.* 11, 12. 1 *Eliz.* 1, 2. with sundry other Acts. Now that Parliamentary power, which onely can create and conferre on Kings a greater regall Authority, and Prerogative than they had before; must needs be the Originall and supreame Authority: for as we rightly argue (*m*) *That the Kings Authority is superiour to all other his greatest Officers and subordinate Ministers of Justice, because their power is by Patent, or Commission derived from his*: So we may from the selfe-same reason conclude, that the High Court of Parliaments power (the representative Body of the whole Kingdome) is the most Primitive, Soveraigne and greatest Authority of all other, yea, larger and higher than the Kings; (*n*) *because it only can enlarge the Kings Prerogative*, all whose originall or additionall Royalties proceede not from the King himselfe, or his Ancestors owne inherent hereditary power, (for what King could justly without his peoples consents, usurpe a Crowne or lawfull Royall Prerogative to himselfe, over an whole Countrey?) but meerely from the voluntary consent and grant of his people in the Parliament. This is unresistably evident not onely by the various (*o*) kinds of Kings; whereof some are of greater power and authority, others of lesse; some by Election, others by succession only, by reason of their Kingdomes & Subjects original institution, by the divers alterations of the Monarchy in this kingdome, which hath beene (*p*) sometimes divided into seven, sometimes into five, sometimes into three or two kingdomes, and at last reduced unto one; by the great (*q*) changes and alterations made in all Foraine Realmes, which have sometimes multiplyed, sometimes diminished the number and power of their Princes, and sometimes *quite abolished the royall forme of Government, changing it into an Aristocraticall or popular rule*, or *Dukedome*: by the divine Authority of S. *Peter*, who in this regard calls Kings and their Supremacy, a (*r*) *humane creature*, or *Ordinance of man*, because *instituted, limited, and moulded into severall degrees of power by men over whom they reigne*; but likewise by two expresse determinations of *Aristotle* in these termes, (*s*) *Regna patriis moribus & legibus* FUNDATA & CONFIRMATA SUNT. And (*t*) *Verum Regnum est imperium majoribus & præstantioribus viris* VOLUNTATE CIVIUM DELATUM, seconded by (*u*) *Tully*, *Livie*, and others.

It is the unanswerable Argument of *Marius Salamonius* (an * incomparable *Roman* Lawyer and Philosopher) in his *Lib.* 1. *de Principatu*, *p.* 17 to 27. Printed at *Paris*, 1578. *Cum privilegio Regis*; To prove, *The whole Kingdome and people the Soveraigne power, greater than the Prince, and the Prince* (be he King or Emperour) *inferiour unto them; because he is not onely their Servant, but creature too; being originally created by, and for them. Now as every Creator, is of greater power and authority than its creature, and every*

(*m*) *See 1 Edw. c.* 1. *Rastall Tit. Sewers or Commissioners. Rastall Tit. Justi. &c.*
(*n*) *Quicquid à populo fluit tale est magis tale & major potest dare quod non habet: ut true in this case.*
(*o*) *See Alex. ab Alexandro, l.* 3. *c.* 2. *Facile persuasi populi jussu & regni consilio fuisse Reges, non independenter populum sibi subditum esse regibus. Regalis potestas data à populo, jam quæsita. Aristt. Polit. l.* 3. *c.* 10, 11. *See Dan. C. S. &* 11.
(*p*) *See Mat. Par. Spec. Hist. Graf. and others.*
(*q*) *Lucie hist. Rom. l. Arist. Polit. l.* 2. *c.* 8. *Guicchins Rom. Antiq.*
(*r*) 1 *Pet.* 2. 13. *Alex. ab Alexandro Genealo. l.* 3. *c.* 3. *l.* 4. *c.* 23.
(*s*) *Polit. l.* 3. *c.* 10 *p.* 209, 210.
(*t*) *lb. l.* 5. *c.* 13. *p.* 367.
(*u*) *De Officiis, l.* 2. *Cælium Rhodi. Antiq. Lect. l.* 8. *c.* 1. *Alex. ab Alexandro Gen. Dier. l.* 2. *c.* 23. *Liter. Hist. Rom. l.* 1. *Sect.* 17. *p.* 14, 15. & *l.* 4. *p.* 144, 145. *Plutarch in Vita Pompilius*
* *So Bartolus Cardinallus & others stile him.*

every cause greater then its effect: So the Authority and power of the people which creates the Prince and Princely power, and augments or limits it as there is cause, must needs be greater, then the Prince or royall power. Who though he be greater than any private subject or magistrate, over whom he rules; yet he is still inferiour to all the people and kingdome, whose Servant or Creature he is, and by whose authority he doth and manageth all things. And though Principalities generally considered be of God; yet the constitution of Princes, and their severall degrees of power are meerely from men: for if the regall Authority of Kings were meerely from the Law of God, or nature (as many ignorant Court Doctors now Preach and write) *it should be the same, and like it selfe in all kingdomes, the same among the* Romans, *as* Parthians, Scythians, Medes, and other Nations; *But it is not the same among all these Nations, but different, such,* Qualis suo cuique placet populo, *as every People pleaseth to prescribe and make choyce of; the Power, Rights, and Royalties of the Kings of the* Parthians, Medes, *and* Scythians, *being such as the* Parthians, Medes *and* Scythians *please; therefore the Rights and Prerogatives of the* Roman *Empire and Emperours,* (and of the kingdom and King of England too) *such as the* Romans *pleased, and prescribed by their Lex Regia*: Which he there prosecutes at * large. And it is the direct conclusion, not onely of this Authour, but likewise of *John Mariana* a *Spanish* Jesuite in his Booke *De Rege & Regis institutione, l.1. c.8.* Dedicated to King *Philip* the third of *Spaine*, and Printed by his and the Emperours speciall Priviledge both in *Spaine* and *Germany*; *That the whole Commonweale, kingdome and people, are of greater power and Authority than the King*; as for other reasons, so for this, *that he is but their Creature, Servant, and derives all his Royall Authority from them alone, not for his owne, but their service, and benefit, who may enlarge or restraine it as they see just cause.* And not to trouble you with Foraine Authorities in this point, which are infinite; I shall onely acquaint you with the resolutions of some eminent ancient Lawyers of our owne.

Andrew Horne, an eminent Lawyer in *Edward* the first his Reigne, in his *Myrrour of Justices*; Chap. 1. Sect. 2. p. 7,8,9. writes thus of the originall institution of our English Monarches. *After that God had abated the Nobility of the Britaines, who rather used force than right, he delivered it to the most humble and simple of all the neighbour Nations, the Saxons; who came from Germany to conquer it, of which Nation there have beene forty Kings, all which held themselves to have* COMPANIONS. "These Princes called this Land *England*, which before was named *Greater Britaine*. These after great warres, elected from among them a King to Reigne over them, to governe the people of God, and to maintaine and defend their persons and goods in peace, by the Rules of Law (or Right:) And at the beginning they caused the King to sweare, that he will maintaine the holy Christian faith to the utmost of his power, and guide his people by Law, without respect to any person, and shall be obedient to suffer (or undergoe) Law, as well as others of his people. And afterwards this Realme was turned to an heritage, according to the number of his Companions, who divided the Realme into 38. Counties, and delivered each one a County to keepe and defend from Enemies, according to every ones estate. And although the King ought to have no Peeres in the Land, yet because if the King of his owne wrong should offend against any of his people, neither he, nor any his Commissaries, can be both Judge and Party; OF RIGHT IT BEHOVES, that the King should have COMPANIONS, for to heare and determine in Parliaments all the Writs and plaints of the wrongs of the King, the Queene, and their chil-

*See p.45,126 127.

'chil dren, and of those especially, of whose wrongs they could not otherwise have 'common right. These *Companions* are now called *Counts*, after the Latine *Comites*; 'and so at this day these Countries are called Countie, and in Latine *Comitatus*, &c. *Henry de Bracton*, who writ in *Henry* the third his Reigne, as in his forecited Passages; so in others, resolves; (x) *That the King is under the Law, because the Law makes him a King, by giving him dominion and power.* Now how doth the Law thus make him a King, but by the Parliament, the Kingdomes great Counsell? *by whose Counsell and consent alone, all Lawes were first enacted*, and yet are, as the (y) same Authour informes us, who further addes. *That the King ought to be under the Law, because Christ whose Vicar he is on earth, when he came to redeeme mankinde, made choyse of this way especially to destroy the workes of the Devill, using not the strength of his power, but the reason of his justice, and so would be* (z) under the Law, that he might redeeme those that are under the Law; Thus the Virgin *Mary* the mother of our Lord, who by singular priviledge was above the Law, yet to shew an example of humility, refused not to be (a) subject to Legall Ceremonies. So therefore the King, lest his power should remaine unbridled, there ought not to be a greater than he in the Kingdome in the exhibition of Justice; yet he OUGHT TO BE THE LEAST, or AS THE LEAST IN RECEIVING JUDGEMENT, if he require it. (b) That a King is created and elected, (by whom but by his kingdome?) to this purpose, to doe justice unto all. That a King cannot doe any thing elsse in earth (seeing he is Gods Minister and Vicar) *nisi id solum quod de jure potest*: but that onely which he can doe by Law. That God, the Law, and his Court (to wit) the Earles and Barons (in *Parliament*) are above the King, and ought to bridle him, and are thence called *Comites*, because they are the Kings Companions. *Fleta* an ancient Law-booke, written in King *Edward* the third his Reigne, *l.* 3. *c.* 3. & 17. useth the selfe-same words that *Bracton* doth; and concludes *That the King hath a Superior, to wit, God, and the Law, by which he is made a King, and his Court of Earles and Barons*; to wit, the Parliament.

Fortescue a Lawyer, Chancellour to King *Henry* the sixt, proves at large, That (d) *the King of* England *cannot alter nor change the Lawes of his Realme, at his pleasure; for why, he governeth his people by power not onely Royall, but Politique. If his power over them were royall onely, then he might change the Lawes of his Realme, and charge his Subjects with tallage and other burthens, without their consent; and such is the Dominion the Civill Lawes purport, when they say; The Princes pleasure hath the force of a Law. But from this much differeth the power of a King whose Government over the people is Politique; For* HE CAN NEITHER CHANGE the LAW *without the consent of his Subjects*, NOR YET CHARGE THEM WITH STRANGE IMPOSITIONS AGAINST THEIR WILL. *Wherefore his people doe frankely and freely enjoy and recover their owne goods*, BEING RULED BY SUCH LAWES AS THEMSELVES DESIRE, *neither are they pilled off their owne King or any other. Like pleasure also should the Subjects have of a King ruling onely by Royall power, so long as he falleth not into tyranny*, St. *Thomas* in the Booke he wrote to the King of *Cyprus*, justifieth the State of a Realme to be such, that it may not be in the Kings power to oppresse his people with tyranny; which thing is performed onely, when the power Royall is restrained by power Politique. *Rejoyce then O * Soveraigne Prince, and be glad, that the Law of the Realme wherein you shall succeed,*

(x) *L.* 1. *c.* 8 *f.* 5 *l.* 3. *c.* 9. *f.* 107.

(y) *Habuerunt leges Angliæ cum suo imperio privilegia & Sacramento Regis confirmatæ mutari non potuerunt &c. Idem l.* 1. *c.* 2. *f.* 1 *b.*

(z) Gal. 4. 4. 5.

(a) Luk. 2. 21, 23, 24.

(b) *Bract. l.* 3. *c.* 9. *f.* 10. *l.* 1. *b. f.* 5. *l.* 2. *c.* 16. *f.* 34.

(c) *Comites, &c. quia a Comitum sive a societate nomen sumpserunt, qui etiam dici possunt Consules a consulendo; Reges enim tales sibi associant ad consulendum & regendum populum Dei, ordinantes eos in magna potestate, honore & nomine &c. Idem l.* 1. *c.* 8 *f.* 5, 6.

(d) *Fortesc. de Laud. Legum Angl. c.* 9.

* This he writes to our King *Henry* the 6. to whom he directs his Booke

ſucceed is ſuch, for it ſhall exhibit and miniſter to you and your people no ſmall ſecurity and content, Chap. 10,11,12. He ſhowes the different ſorts of Kings or kingdomes, ſome of greater, others of leſſer power; ſome elective, others ſucceſſive; proceeding meerely from the peoples free conſents and inſtitution, and that the ancient *Ægyptian*, *Æthiopian*, and other Kings, were ſubject to, and not above their Lawes, quoting ſundry paſſages out of *Ariſtotle*, concerning the originall of kingdomes. *Chap.* 13. He proceeds thus: "A People that will raiſe themſelves into a kingdome or "other Politique body, muſt ever appoint one to be chiefe Ruler of the whole bo- "dy; which in kingdomes is called a King. In this kinde of Order, as out of an "*Embryo* ariſeth a body naturall, ruled by one head, becauſe of a multitude of peo- "ple aſſociated by the conſent of Lawes, and communion of wealth, ariſeth a king- "dome, which is a body myſticall, governed by one man as by an head. And like "as in a naturall body, the heart is the firſt that liveth, having within it blood, "which it diſtributeth among the other members, whereby they are quickned; "ſemblably in a body Politique, THE INTENT OF THE PEO- "PLE is THE FIRST LIVING THING, having within it blood; "that is to ſay, Politique proviſion for the Utility and wealth of the ſame people; "which it dealeth forth and imparteth ASWELL TO THE HEAD as "to the Members of the ſame body, whereby the body is nouriſhed and maintained, "&c. Furthermore, the Law under which a multitude of men is made a people, re- "preſenteth the forme of ſinews in the body naturall; becauſe that like as by ſinews "the joyning of the body is made ſound; ſo by the Law, (which taketh the name "*a Ligando*, from binding) ſuch a Myſticall body is knit and preſerved together, "and the members and bones of the ſame body, (whereby is repreſented the ſound- "neſſe of the wealth, whereby that body is ſuſtained) doe by the Lawes, as the na- "turall body by ſinewes, retaine every one their proper function. And as the head "of a body naturall cannot change his Sinewes, nor cannot deny nor with-hold "from his inferiour members, their proper powers, and ſeverall nouriſhments of "blood: So NEITHER CAN THE KING (who is the head of the "Politique body) CHANGE THE LAWES OF THAT BODY, "nor with-draw from the ſaid people THEIR PROPER SUBSTANCE "AGAINST THEIR WILLS OR CONSENTS. For ſuch a "King of a kingdome politique, is made and ordained for THE DEFENCE "OF THE LAWES OF HIS SUBJECTS, and of their bodies "and goods. WHEREUNTO HE RECEIVETH POWER OF "HIS PEOPLE, SO THAT HEE CANNOT GOVERNE "HIS PEOPLE BY ANY OTHER LAW. *Chap.* 14. *he addes*, No "Nation did ever of their owne voluntary minde incorporate themſelves into a "kingdome FOR ANY OTHER INTENT, BUT ONELY TO "THE END, that they might thereby with MORE SAFETY THEN "BEFORE MAINETAINE THEMSELVES, and enjoy THEIR "Goods free from ſuch misfortunes and loſſes as they ſtood in feare of. And of "this intent ſhould ſuch a Nation be defrauded utterly, IF THEIR KING "MIGHT SPOYLE THEM OF THEIR GOODS, WHICH "BEFORE WAS LAWFULL FOR NO MAN TO DOE. "And yet ſhould ſuch a people be much more injured, if they ſhould afterwards be governed

"governed by Foraine and ſtrange Lawes, and ſuch peradventure as they deadly "hated and abhorred, and moſt of all, if by thoſe Lawes their ſubſtance ſhould be "diminiſhed; for the ſafeguard whereof, as alſo for their honour, and of their "owne bodies, THEY OF THEIR OWNE FREEWILL "SUBMITTED THEMSELVES TO THE GOVERNE-"MENT OF A KING. NO SUCH POWER FREELY "COULD HAVE PROCEEDED FROM THEM; and yet IF "THEY HAD NOT BEENE, SUCH A KING COULD "HAVE HAD NO POWER OVER THEM. And *Chap.* 36. *f.* 86. He concludes thus. "The King of *England*, neither by himſelfe nor his Mi-"niſters impoſeth no Tallages, Subſidies or any other burthens on his Lieges, or "changeth their Lawes, or makes new ones without the conceſſion or aſſent OF "HIS WHOLE KINGDOME EXPRESSED IN HIS PAR-LIAMENT. Thus and much more this Learned Chancellour in point both of Law and Conſcience, ſufficient to ſtop the mouthes of all Malignant Lawyers and Royaliſts, being Dedicated to and approved by one of our devoteſt Kings, and written by one of the greateſt and learnedeſt Officers of the Kingdome in thoſe dayes.

In few words, (*f*) *Raphael Holinſhed*, *John Vowell* and others, in their Deſcription of *England*, Printed *Cum Privilegio*, reſolve thus of the Parliaments power. *This Houſe* HATH THE MOST HIGH AND ABSOLUTE POWER OF THE REALME, for thereby KINGS AND MIGHTY PRINCES HAVE FROM TIME TO TIME BEENE DEPOSED FROM THEIR THRONES, *and Lawes are enacted, and abrogated, Offenders of all ſorts puniſhed, and corrupted Religion, either diſanulled or reformed. It is* THE HEAD AND BODY OF ALL THE REALME, *and the place where every particular man is intended to be preſent, if not by himſelfe, yet by his Advocate and Attorney: For this cauſe any thing that is there enacted, is not to be withſtood but obeyed of all men, without contradiction or grudge: and to be ſhort, all that ever the people of Rome might do, either* Centuriatis Comitiis, *or* Tribunitiis, *the ſame is and may be done by the Authority of Parliament.* Now the *Romans* in their Aſſemblies had power to enact binding Lawes, to create and elect their Kings and Emperours, and likewiſe to judge, cenſure, and depoſe them; to create and elect all kindes of Officers, and to* change the very forme of their State and Government (as I ſhall hereafter manifeſt:) Therefore by theſe Authours reſolution, the Parliament hath an abſolute power to doe the like, when they ſee juſt cauſe. Sir *Thomas Smith* one of the Principall Secretaries of State to King *Edward* the 6. and Queene *Elizabeth*, and a Doctor of Law, in his Common-wealth of *England*, *l.* 2. *c.* 1. in the old, but 2. in the laſt Edition, hath the ſame words in effect with *Holinſhed*, and adds, that the *Parliament giveth forme of Succeſſion to the Crowne, &c.* Our Kings Royall power being then originally derived to them, conferred on them by the Peoples and Kingdomes common conſents in Parliament, and all their new additionall Prerogatives too, as the premiſes evidence, it cannot be denyed, but that the whole kingdome and Parliament, are really in this ſenſe above him, and the moſt Soveraigne primitive power from whence all other powers were, and are derived.

(*f*) *Cap.* 8. *fol.* 1 *p.* 173.

* *See Bodin l.* 2. *c.* 5. *l.* 1. *c.* 10. *Lampridius & Grimſton in the life of Nero, Maximinus, Heliogabalus, and others.*

Fourthly, This is undeniable, becauſe the whole kingdome in Parliament, may not

not onely augment, but likewise *abridge, allay, abolish, and resume some branches of the Kings royall power and prerogative if there be just cause, as when it becomes onerous, mischievous, or dangerous to the Subjects, inconvenient to, or inconsistent with the kingdomes, peoples welfare, peace, safety, Liberty, or the Lawes*; This is most apparent by *Magna Charta*; *Charta de Foresta, Statutum De Tallagio non concedendo, Articuli super Chartas, Confirmatio Chartarum*, 1 E.3. c.6, 7. 2 E.3. c. 2.8. 3 E.1. c. 35. 9 E.3. c.12.5 E. 2. c. 9. 10 E. 3. c. 2,3. 14 E.3. c.1. 14. 18 E.3. c.8. 25 E.3. c.4. *Stat.* 3. c.1,2. & *Stat.* 5. c.8.11. 36 E.3. c.10. 37 E.3. c.18.42 E.3. c.3. 10 R. 2. c.1. 11 R.2. c.1. to 7. 1 R.3. c.2. 4 H.4. c.13. 21 Jac. c.3. 24. 7 H.8. c.3. *The Petition of Right*, 3 Caroli, most Statutes against *Purveyens, Pardons, Protections*, and for regulating the Kings *Charters, Grants, Revenues*: the Acts made this Parliament against *Ship-money, Knighthood, Forest-bounds, Pressing of Souldiers, the Star-Chamber, High-Commission, the Triennial Parliament, the continuance of this Parliament; whiles they please, with* (g) *sundry other Acts*, which restaine, abridge, repeale, resume divers reall and pretended branches of the kings royall Prerogative, because they proved grievous, mischievous, dangerous, pernicious to the people and kingdome. This then answers that irrationall, groundlesse position of Doctor *Ferne*; *That* (h) *the Subjects neither lawfully may, nor ought in any case to resume all or any part of that Regall power wherewith they have once invested their Kings by common consent, though it prove never so mischievous, and be never so much abused to the peoples prejudice.* Which, as it is contrary to that received principle of nature and reason: *Eodem modo quo quid constituitur, dissolvitur*, That all Governments created by mens consents, especially being but officers in trust for their good and welfare onely; to (i) *sundry presidents and Propheses in Scripture concerning the Alterations, Subversions, Diminutions of Kings and kingdomes*; to the constant practise of (k) all Realmes, all States whatsoever, from *Adam* till this instant, who have undergone many strange alterations, eclipses, diminutions, yea Periods of Government: to the Resolution of (l) *Aristotle*, and all other Politicians, who hold all formes of *Government changeable and revocable, without any injustice, if necessary or convenient*; So likewise to the very end for which Kings have regall power (as well as other Governours, and Governements) and for which they were ordained; to wit, *their kingdomes, peoples* (m) *welfare, safety, peace, protection, &c. Salus populi*, being not onely that *Suprema Lex, but principall end for which all royall power was instituted by God and Man*, and to which it must submit in case it becomes incompatible, or inconsistent with the publique weale or safety: What therefore that learned Father *Augustine* Bishop of *Hippo*, long since resolved touching the (now much contested for) Lordly State of Episcopacy, *which he and neere three hundred African Bishops more, were then ready to lay downe for the Churches peace*; I may fitly apply to the now over-much contended for supposed royall Prerogatives of Kings, to effect peace in our State, in these times of uncivill military (that I say not bloody) dissentions, raised about them betweene King and Parliament, *An vero, &c.* (n) *What verily did our Redeemer descend from heaven into humane members, and shall we, lest his very members be rent in pieces with cruell division, fear to descend out of our Thrones?* we are ordained Bishops for Christian peoples sake what therefore may profit them for Christian peace, that let us doe with our Bishoprickes. *Quod autem sum propter te sim, si tibi prodest, non sim, si tibi obest.* What I am, I may be for thee, if it profit thee; I may not be, if it be hurtfull to thee. If we be profitable servants, why d[illegible] we envy the eternall gaines of our Lord for our tem-

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(g) See the Arguments against Ship money, & Impositions, & the declarations against the *commission of Array*.
(h) Resolving of Conscience Sect 4,5.
(i) See *Josua, Judges, Samuel, Kings Chro. Dan.* throughout. *Isa. Jerem. Ezek.* in sundry chap.
(k) See *Sleidan de 4 or Imperiis Mat. West. Livy, Justin, Opnerus, Purchas, Chroni. Chronicarum*; & all generall hist.
(l) *Polit. l. 2, 3 4. 5, Plato de Republica, Bod. Common-weale.* The Repub. of sundry Nations *Polyb. Hist. l. 6.*
(m) Rom. 14. 1 to 6. 1 Pet 2. 13, 14 2 Sam. 5 12. Nehe. 2. 10. Psa. 78. 70, 71. 2 Chro 9. 8. 1 Cor. 3. 21, 22. Esth. 10. 3. *Arist. Pol. l. 3, 4 5. Cœlius Rhodig. l 8. c 1. Bra. l. 3. c, 9. f.* 107.
(n) *Augustinus de Gestis cum Emerita Donatist. Epist Tom 7 par 1 p. 882 783.*

porall sublimities or Prerogatives? Our Episcopall dignity will be more fruitfull to us, if being laid downe it shall more unite the flocke of Christ, than dispersé it if retained. If when I will retaine my Bishopricke I dispersé the flocke of Christ, how is the dammage of the flocke the honour of the Shepherd? &c. Old statute Lawes, yea the common Law of *England*, though above the King and his Prerogative, may be, and oft are repealed and altered by Parliaments, when they become mischievous or inconvenient; therefore by like or greater reason, may any branches of the Kings Prerogative, inferiour to these Lawes, be restrained, yea resumed, when they prove grievous or dangerous to the Subject: It is the Kings owne professed *Maxime*, in full Parliament; (*o*) (Printed and inrolled by his speciall command, in all his Courts) *That the Kings Prerogative is but to defend the Peoples Liberties*: when therefore it either invades or subverts them, it may justly, it must necessarily be restrained, diminished or resumed by the Parliament, from whose assent or grant, it first proceeded, and that onely for the publique weale, not prejudice of the people. The Emperour (*p*) *Otho* the first, and our King *Richard* the second (as (*q*) some imagine) *voluntary resigned, relinquished their Crownes, to their immortall honour, to prevent the effusion of their Subjects blood, by civill warres, and settle peace within their Realmes*: and shall not other Kings then most joyfully part with some *Punctilioes* of their reall, or branches of their supposed Prerogatives for the selfesame ends, if their Parliaments see good cause to resume them, and of right may doe it?

(*o*) At the end of the Petition of Right, 3 Caroli.

(*p*) See *Europæus, Sabellicus, Crompton, Speed* & others of his life.

(*q*) *Speeds* History P. 757.

Fifthly, The King though he be the chiefe and principall (yet he is onely one member of the Parliament and kingdome, the least (because but one person) though the highest branch; the Lords and Commons (not elected by, but assigned Counsellors to the King, by the kingdome and people) being the greatest and most considerable part, as representing the intire body of the Kingdome. Now common reason, Law, and experience manifests, and *Aristotle Polit. l.* 1. *c.*2. with *Marius Salamonius, de Principatu, l.*1. *p.* 40,41. conclude, *that the whole, or greatest part in all politique or naturall Bodies is of greater excellency, power, and jurisdiction, than any one particular member.* Thus in all our (*r*) *Corporations, the Court of Aldermen and Common Councell is of greater power than the Mayor alone, though the chiefe Officer: the Chapter of greater authority than the Deane, the Deane and Chapter than the Bishop; the whole Bench, than the Lord chiefe Justice, the whole Councell than the President; the whole Parliament then either of the Houses*: and by like reason than the King; especially, since one of the three Estates is lesser than the three Estates together; who in Parliament, by the fundamentall Constitutions of the Realme, are not (*s*) *Subordinate*, but *Coordinate* parts of the same great Common-Councell of the kingdome. It is *Aristotles* expresse determination, (*t*) that in an *Oligarchie, Aristocracie*, and *Democracie*, whatsoever seemes good to the *major* part of the Governours of the Common-wealth, that is ratified; that the whole City, Kingdome, Family, is more excellent, and to be preferred before any part or member thereof. And that it is unfit the part should be above the whole: And in all Courts of Justice, Corporations, and Elections, (*u*) the *major* part have alwayes had the greatest sway, and constantly over-ruled the lesse, though it be but by one casting voyce; as is evident to all in the Elections of Knights, and Burgesses of, and votes in the Parliament; in which the (*x*) *King, Lords and Commons*, by the Common Law, make up but one intire *Corporation*: Since then even in Parliament it selfe, the *major* part over-swayes the rest, yea the King himselfe (who hath

(*r*) See *Br. Tit.* Corporations.

(*s*) See the Fuller Answer to Dr. *Ferne, p.* 2,3.

(*t*) *Quod eorum qui rempublicam gerunt majori parti placuerit, id est ratum & firmum, Arist. Polit.* 4. *c.* 8. *l.* 1. *c.* 2. *l.* 3. *c.* 8.

(*u*) *Br. Corpora.* 34. 8 *H.* 6. 7.

(*x*) 14 *H.*8 *f.*3. *b.*

no absolute negative voyce, but onely in refusing to passe some kind of Bills not all (of which more hereafter) doubtlesse the whole, or (*y*) *major* part of the Parliament (which in Law is the whole) is above the King, the chiefe member of it. Which consideration, together with the Statutes of 5 *R.* 2. Stat. 2. *c.* 4. 6 *H.* 8. *c.* 16. *Enacting, That none elected to be in any Parliament shall depart or absent himselfe from the same Parliament till it be fully ended or prorogued, without speciall license of the Speaker of the Commons to be entred of Record in the journall Booke, under paine of amercement, losse of wages, & other punishment; nor* * *any Member of the Upper House without that Houses license under paine of inditement, imprisonment or fine;* as appeares by the Bishop of *Winchesters* case, 3 E. 3. 19. *Fitz. Coron.* 161. and *Stamford, l.* 3. *c.* 1. *f.* 153. compleatly answers that fond cavill of Malignants and Royalists against this Parliament; that *the King and many of the other Members have wilfully absented themselves from the House,* (of purpose to dissolve it if they could, notwithstanding the late speciall Act made by their joynt consents for its continuance,) *Ergo this unlawfull Action of theirs* (to effect this pernicious designe) *must nullifie, or at least invalid* (in their new non-sence Law and Logicke) the *lawfull proceedings of those worthy faithfull members who continue in it,* to preserve both Parliament, Kingdome, Religion, Lawes, Liberties, from ruine and dissolution. If these absent Members be the greater number, why doe they not come and over-vote the rest in the House in a peaceable, legall, usuall Parliamentary way, rather than challenge them into the field in a military, illegall, unusuall bloody manner, unheard of in former ages? If the lesser party, then present or absent the *major* part must over-rule them *volens nolens*, as it hath ever used, unlesse they will be wilfuller (I cannot say wiser) than all their predecessors put together.

(*y*) *Major Pars est totum, Brooks Corporati.* 3 + *Smiths Commonwea. of Engl. l.* 2 *c.* 3.

* See the manner of holding Parliaments in *England*: newly Printed at *London*, 1641. & *Dyer f* 60. *a*, *Br. Parl.* 7.

Object. As for his Majesties absence from the Parliament by the pernicious advise of evill Counsellors; so much insisted on by Malignants.

Answ. I answer, First, That it was without any just cause given by the Parliament. Secondly, It was much against their wills, who have (*a*) oft importuned, petitioned, and used all possible meanes to procure his returne. Thirdly, His absence was procured, and is yet continued by those alone, who most unjustly taxe the Parliament for it, and would take advantage of this their owne wrong. Fourthly, though he be personally absent as a man, yet he is still Legally present in Parliament, (called the *Kings presence*) as he is a King; as he is in all other his Courts of Justice, where all proceedings are entred, (*b*) *Coram Rege*, though the King never yet sate personally in either of them, as he hath oft times done in this Parliament; for the continuance whereof he hath passed such an Act, as will inseparably tye his royall presence to it, though the Cavaliers about him should by force with-draw his person from it, not onely as farre as *Yorke*, but the remotest *Indies*; yea, he must first cease to be *King of England*, ere he can be legally absent from his *Parliament of England*. This his wilfull personall absence from his greatest Counsell which desires and needs it, is (as many conceive) an Act of the highest injustice that ever any Prince could offer to his Parliament, worse than (*c*) *Rehoboams forsaking the counsell of his ancient Sages, to follow the hare-brain'd advise of his young Cavalieres*; for though he followed not their ancient prudent counsell, yet he with-drew not himselfe from them, as his Majesty now severs himselfe from his Parliament, not only without but against all precedents of his Royall predecessors, except King (*d*) *Richard* the second (who once absented himselfe from his Parliament above forty dayes, yet then returned to

(*a*) See their Messages & petitions to the King to this purpose.

(*b*) See *Cambd. Brit. p.* 163. which stiles the Parliament the Kings presence. *The Register of Writs. Old & New Natura Brevium old & new book of Entries. Cooks Instit. on Lit f.* 71. 6.

(*c*) 1 King. 12. & 2 Chron. 10.

(*d*) *Grafton, p* 348. 349, 350.

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it upon better adviſe) and the very common cuſtome and Law of the Land, (which he is obliged by his *Coronation Oath*, and many late Proteſtations added to it, *conſtantly to maintaine.*) This appeares moſt clearely by the ancient Treatiſe, *Of the manner of holding of Parliaments in England*, both before and ſince the Conqueſt, (* tendered to and approved by the Conquerour himſelfe, newly Printed 1641.) which in the Section, *Touching the Kings abſence from Parliament*, reſolves thus. *The King is* BOUND *by all meanes poſſible* TO BE PRESENT AT THE PARLIAMENT; *unleſſe he be detained or let therefrom by bodily ſickneſſe, and then he may keepe his Chamber, yet ſo as he lye not without the Manour, or Towne at the leaſt, where the Parliament is held: and then he ought to ſend for twelve perſons of the greateſt and beſt of them that are ſummoned to the Parliament, that is, two Biſhops, two Earles, two Barons, two Knights of the ſhire, two Burgeſſes, and two Citizens, to looke upon his perſon, to teſtifie and witneſſe his eſtate, and give* * *Authority to the Arch-biſhop of the place, the Steward of* England, *and chiefe Juſtice, that they joyntly and ſeverally ſhould begin the Parliament, and continue the ſame in his name,* (See 8 *H.* 5. *c.* 1. *Cromptons Juriſdiction. f.* 13. *a.* 17. *b.* according *herewith*) *expreſſe mention being made in that Commiſſion, of the cauſe of his abſence there, which ought to ſuffice.* The reaſon is, *becauſe there was wont to be a cry and murmure in the Parliament for the Kings abſence, becauſe his abſence is hurtfull and dangerous to the whole commonalty of the Parliament, neither indeed* OUGHT, OR MAY HE BE ABSENT, BUT ONELY IN THE CASE AFORESAID. And whereas *Malignants* clamour, that moſt of the Lords are abſent as well as the King, and therefore this can be no lawfull Parliament; The ſame Authour will informe them; *That if the Lords be once ſummoned to Parliament, and then appeare not, or abſent themſelves, the King may hold the Parliament with the Commonalty and Commons of the kingdome* (every of which hath a greater voyce in Parliament then the greateſt Earle in *England*, becauſe he repreſents a whole County, Towne, or City, the other himſelfe alone) *without Biſhops, Earles, or Barons; becauſe in times paſt, before there was either Biſhop, Earle, or Baron, yet even then Kings kept their Parliaments; but on the contrary, no Parliament can be kept by the King and Peeres, if all the Commons* (for the Kings miſgovernment, or ſuch like cauſe) *ſhould abſent themſelves.* This is the judgement of (r) Maſter *John Vowel* too, who writes in this manner: *Yet nevertheleſſe, if the King in due order have ſummoned all his Lords and Barons, and they will not come: or if they come, they will not yet appeare: or if they come and appeare, yet will not doe or yeeld to any thing, then the King with the conſent of his Commons, may ordaine and eſtabliſh any acts or Lawes, which are as good, ſufficient and effectuall, as if the Lords had given their conſents.* But on the contrary, *If the Commons be ſummoned and will not come, or comming will not appeare, or appearing will not conſent to doe any thing, alledging ſome juſt, weighty, and great cauſe; the King in theſe caſes* (d) *cannot with his Lords deviſe, make, or eſtabliſh any Law.* The reaſons are theſe, *When Parliaments were firſt begun and ordained, there were no Prelates or Barons of the Parliament, and the temporall Lords were very few or none; and then the King and his Commons did make a full Parliament, which Authority was never hitherto abridged.* Againe, *every Baron in Parliament, doth repreſent but his owne perſon, and ſpeaketh in the behalfe of himſelfe alone. But in the Knights, Citizens, and Burgeſſes are repreſented the Commons of the whole Realme, and every of theſe giveth not conſent onely for himſelfe, but for all thoſe alſo for whom he is ſent. And the King with the conſent of his Commons had ever a ſufficient and full authority, to make, ordaine, and eſtabliſh*

* See *Mirſhes Dictionary. Tit. Parliam f* 526.

* Note this.

(r) *In Hol. of Chron. of Ireland f.* 127, 128.

(d) *Cromptons Juriſdiction of Courts, f.* 8. 4 *H.* 7, 18 7 *H.* 14 11 *H.* 27. *Parliament* 42 76. 33 H 6. 17 adjudged accordingly, *Br. Prerogative* 134.

good and wholesome Lawes for the Commonwealth of his Realme. Wherefore the Lords being lawfully summoned and yet refusing to come, sit, or consent in Parliament, cannot by their folly, abridge the King and the Commons of their lawfull proceedings in Parliament. Thus and more *John Vowel* in his *Order and Usage how to keepe a Parliament*; Printed *Cum Privilegio.* And Sir *Edward Cooke*, in his Institutes on *Magna Charta*, proves that the Lords and Peeres in many Charters and Acts, are included under the name of the Commons and Commonalty of *England.* But we need not retire to this last doubtfull refuge; the Honourable, faithfull Lords now present, though not so many as could be desired, are the intire House of Peeres in judgement of Law, (as those present at the election of Knights of the Shire, or Burgesses (though the *major* part be negligently or wilfully absent) are the whole Shire or Burrough) and the wilfull absence of the residue, though the greater number, being (*e*) contrary to Law, contrary to the Priviledges of Parliament, and their late Protestations, *tending to the very subversion of Parliaments* (for which high contempt they and their * Posterities too, may justly be disabled for ever to sit as members of that House, which they have so dishonourably, if not treacherously, deserted, even as (*f*) *well as Knights and Burgesses, whose personall attendance is so necessary, that if during the Parliament, they absent themselves from it, about any businesses of their owne, without leave of the House, or be so sicke, or elected Mayors of a Towne, or any other judiciall Officers, so as they cannot attend the service of the House, they may thereupon be lawfully expelled the House, and a new Writ expressing the cause of their removall, shall issue for a new election of others in their places, to make the House compleat,* as was resolved by the Commons House, 38 *H.*8. *Br.* Parliament 7.) can no more disable those now present from being a true and lawfull House of Peeres, than the multitudes departing from the true *Church of God, to the false*, disprove it to be the *true Church of Christ*, (*g*) *whose true flocke is but little.* In a word (*h*) *divers Parliaments have beene kept and held, and* * *Acts made without Bishops or Abbots heretofore, even while they were reputed members of the Lords House, and one of the three Estates in Parliament*; therefore this Parliament (which hath taken away Bishops Votes for ever) may be lawfully held, notwithstanding any Lords or Commons wilfull absence from it in person; who yet as long as they are members of the Parliament, shall still be adjudged legally present, whether they will or no. One puny Judge in the Courts of *Westminster* may and doth usually give judgement, and make binding Orders, though the Chiefe Justice and his fellowes be negligently or wilfully absent: Much more then may the Lords and Commons now present, doe the like, in case of the Kings and other Members wilfull absence, of purpose to ruine both Parliament and Kingdome, against which they are now in armes, and have levyed open warre.

Sixthly, it is most apparent both by (*i*) *Scripture, the verdict of all* (*k*) *Politicians and writers of note, the* (*l*) *Statutes of our Realmes and Lawyers, that kingdomes, Subjects,*

(*e*) See *Stamford f.* 38.155. 3 *E.*3.19.*Cor.* 161.
* See 21 R.2. c 6.
(*f*) *Dyer f.*60.*n. Bract. Parli.*7. *Crompt. Jurisd. f.*16.*a.*
(*g*) Luk. 12.32 Matth. 13. 23. Mat. 7.13,14.
(*h*) See Bishop *Jewels Defence of the Apologie, p.*6.c.7. *Divis.* 1 Bishop *Bilsons true difference of Christian subjection, and unchristian rebel. part* 3.*p.* 540, 541, 542. Bishop *Pilkington of the burning of Pauls steeple. Keilway, f.*184. *b. Cromp. Jurisd. of Courts, f.*19, 20. 10 *E.*4. *f.*6. *Stamf. Pleas, l.* 33.1 *f.*153 *Br. Coron.*135. *Antiq. Eccles. Brit. p.*299,300. *Sp. p.*1156. *Mary. hist. p.*450. to 454. *John Vowels Chronicle of* Ireland *p.*127,128, * 25 *E.*3. *stat.* 6. *de Provisionibus.* 31 *E.*3. *c.* 4. 36 *E.*3. *c.*8. 38 *E.*3. *stat.*2. *c.*2. 7 *R.*2. *c.*12. 3 R.2. *c.*12. 11 R.2. *Preface & c.*3. 12. 1 *E.*3 *c.*2. 14 *E.*3 *stat.*3. *Preface.* See 20 *H.*3 *c.*9. 21 *H.*3. *stat. of Leape-yeare,* 4 *H*3 *stat. of Marlbridge.* 4 *E.*1. *de Big. Prolog. & c.*6. 6 *E.* 1 *stat. de Gloster. Preface* 13 *E.* 1. *Action Enovel.* 13 *E.*1. *c* 43 *de malefact. in part.* 21 *E.* 1. *Escheators,* 3 *E* 1. *Quo warranto,* 9 *E.*2. *Artic. Cleri. Pref.* (*i*) 1 Sam. 19,20. 2 Sam. 5. 12. 2 Chron. 9. 8. Isa. 49.23. Rom. 13 4,5. 1 Pet. 2.13, 14. (*k*) *Arist. Polit. l.*3, & 5. *Plato: Agesilaus. Xenophon de Instit. Cyri hist. Cælius Rhodig. Antiq. Lect. l.*8.*c.*1. *Bodin de Republica. Osorius de Rege & Regum Instit.* (*l*) *The Prearbles of all ancient statutes, Bracton l.*1.*c.*8. *l.*3.*c* 9. *Fleta l.*1.*c.*5. 17. *Britton c.*9. 10 15.

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and *Parliaments*, were not created by God for the wils, pleasures, profit or benefit of Kings, who by birth and nature differ not at all from the meanest of their Subjects; but Kings were at first constituted, and still continued for the protection, welfare, benefit, service of their kingdomes, Parliaments, People, whose publicke Servants, Ministers, Shepherds, Fathers, Stewards, and Officers they are. Now Nature, Reason, and (*m*) Scriptures resolve, that he who is instituted meerely for the benefit and service of another (as all the (*n*) Creatures were created for mans use, and therefore are inferiour unto man in dignity and power) is of lesse dignity, power, and jurisdiction, than the intire body of those for whose good he was instituted; as the (*o*) servant is inferiour to his Master; the (*p*) Wife to her Husband, for whom they were created; the Mayor to the whole Corporation; and the King to his whole Kingdome and Parliament: which consideration hath caused sundry Kings and Emperours, not onely to adventure their lives in bloody battles, but to lay downe their Crownes for the peace and safety of their Subjects; witnesse (*q*) *Otho* the first, and others; with the Examples of *Moses*, *Exod.* 32. 9. to 15, 32. *Numb.* 14. 11, to 15. of *David*, 2 *Sam.* 29. 17. 1 *Chron.* 21. 17. and *John* 10. 11. 15. with other precedents which I pretermit. And the reason is apparent, for if the King be slaine in defence of the kingdome or People, yet the kingdome and people may remaine secure, and another succeed him in that office of trust, (In which respect a Politique body differs from a Naturall, that it hath life, continuance, and meanes to guide, defend, and Order it selfe, though the King and head be cut off by death.) But if the Realme and People be destroyed, though the King survive them *as a Man*, yet he must necessarily perish in and with them *as a King*, since he cannot possibly be a King without a kingdome and people; for whose good and safety alone he was made a King. Hence *Aristotle*, *Polit. l.*3.c.4. and *Marius Salamonius*, *de Principatu*, *l.*2. *p.* 50. define a Principality, to be *A just Government for the benefit of the people, respecting onely the publique good and welfare, not its owne private advantage.* Hence *Plato de Repub. l.* 1. thus describes the Office of a Prince towards the Common-wealth. *That as he is a Prince, he neither mindes nor commands what is advantagious to himselfe, but what is beneficiall to his Subjects; and whatever he saith or doth, he saith and doth it for the profit and honour of the Republicke*; which *Cicero* in his Offices hath more elegantly thus translated; *As the defence, so the procuration of the Common-weale is to be managed to the benefit of those who are committed, not of those to whom it is committed.* And *de Finibus l.*3. *A good and wise man, not ignorant of his civill Office, is more carefull of the utility of all, than of any one, or of his owne: Neither is a Traytor to his Country to be more dispraised, than a deserter of the common profit and safety, for his owne profit and safety.* And the Emperour * *Justinian* used this golden sentence. *Quod communiter omnibus prodest, hoc privatæ nostræ utilitati præferendum esse censemus; nostrum esse proprium, Subjectorum commodum Imperialiter existimantes: Imperialis benevolentiæ hoc esse judicantes, ut omni tempore Subjectorum commoda tam investigare, quam eis mederi procuremus.* I shall conclude this with * *Salamonius* his words. *Let the Prince be either from God, or from men, yet think not that the world was created by God, and in it men, that they should serve for the benefit of Princes; for it is an absurdity, above what can be spoken, to opine that men were made for Princes, since God hath made us free and equall: But Princes were ordained,* ONELY FOR THEIR PEOPLES BENEFIT, *that so they might innocently preserve humane and civill societie with greater facility, helping one the other with mutuall benefits*: Which he there largely proves by sundry Hiſtories and Authorities.

(*m*) 1 Cor. 3. 21 22, 23.
(*n*) Gen. 1 28. to 31. c. 9. 2, 3, 4. Psal. 8. 6, 7, 8.
(*o*) Ephes. 6. 5. Col. 3. 22, 23.
(*p*) Gen. 8. 18. c. 3. 16. 1 Cor. 11. 3 8, 9. Ephes. 5. 23, 24. 1 Pet. 3 1. 1. & 3. 18.
(*q*) See *Eutrop. Grimst.* & other in his life.

* *Salamonius de Principatu l.*2. *p.* 52. 59. See *Codicis l.*1. *Tit.* 1. 3. *Cordi nobis est, P.C. semper nostri animi curas rebus communibus ac id sissime impendere, &c.*

* *De Principatu l.*2. *p.*57.

That of * Peter *Matthew* being a certaine verity. *All the Actions of a Prince must tend to the good and health of his people, for whom he lives, and more than for himself, as the Sun doth not shine and give heat, but for men, and the elements.* The King then being made King, onely for the Kingdomes, Parliaments, Peoples service, must needs (in this regard) be inferiour to, not Paramount them in absolute Soveraigne power; though greater, * *better* than any particular Subjects.

* *Generall Hist. of Fran. p.* 1069

* 2 Sam. 18. 3.

Seventhly, The *Parliament* (as our (*r*) Law-bookes, and (*s*) Writers resolve) *is the most high and absolute power, the supreamest and most ancient Court of the Realme of England, and hath the power of the whole Realme, both Head and Body; and among other Priviledges this is the highest, that it is above the Law it selfe, having power upon just grounds to alter the very common Law of England; to abrogate and repeale old Lawes, to enact new Lawes of all sorts, to impose taxes upon the people:* Yea, it hath *power to declare the meaning of any doubtfull Lawes, and to repeale all Patents, Charters, Grants, and Judgements whatsoever of the King or any other Courts of Justice, if they be erroneous or illegall, not onely without, but against the Kings personall consent, so farre as finally to obliege both King and Subjects.* Now it is cleare on the contrary side, that the King hath not the power of the whole Realme vested in his person, that he (*t*) and his Prerogative are not above, but subordinate to the Lawes of the Realme; that he cannot by his absolute regall power, alter the Common Law of the Realme in any particular point whatsoever, that he cannot repeale any old, nor enact any new Law whatsoever, nor impose the least taxe or common charge upon his people, nor imprison their persons, distraine their goods, declare any Law, or reverse any judgement in the meanest of his Courts, without or against his peoples joynt consents in *Parliament*; For *Potestas sua Juris est & non injuriæ*; &, *Nihil aliud potest Rex in terris, nisi* ID SOLUM QUOD DE JURE POTEST. *Bracton l.* 3. *c.* 9. *f.* 107. Therefore without any peradventure, the *Parliament* in this regard is the most Soveraigne Authority, and greater in jurisdiction than the King. (*u*) *John Bodin* that great Lawyer and Politician, resolves; *That the chiefe marke of an absolute and Soveraigne Prince is to give Lawes to all his Subjects in generall, and to every of them in particular without consent of any other greater, equall, or lesse than himselfe. For if a Prince be bound not to make any Lawes, without the consent of a greater than himselfe, he is then a very Subject: if not without his equall, he then hath a Companion* (as (*x*) *Bracton* and others forecited, say our *English* King hath; namely his Earles and Lords, thence stiled *Comites:*) *if not without the consent of his inferiours, whether it be of his Subjects, or of the Senate, or of the People; he is then no Soveraigne.* Whence it follows, that the Kings of *England*, who cannot make any Law to obliege either all or any of their Subjects, nor impose any Taxes, nor repeale any Common or Statute Law, but in and by their Parliaments, are no absolute Soveraigne Princes (as some Royalists and Court Divines, most falsly averre them to be) but meere mixt Politique King, inferiour to their Lawes and Parliaments, the sole Law-makers, Law-alterers, though not against, but with the Kings assent, considered not abstractively as Kings, but copulative as a branch and member of the Parliament. And indeed to speake impartially, though the Kings Royall assent (*y*) be generally requisite to passe and ratifie Lawes: yet I hum-

(*r*) *Crompt. Iurisd. of Cour f.* 1. *& Bract. l.* 1. *c.* 2. 19 *H* 6. 63. *a*, 64. *b.* 31 *H.* 8. *c.* 10. *Dyer* 60. *a Cooks Instit. on Lit. f.* 109, 110

(*s*) Sir *Thomas Smith, of the Commonweal. of England. l* 2. *c.* 1, 2. *Holi. Descrip. of Engl. c.* 8. *p.* 173. *Cam. Brit. p.* 173. *J. Vowels Order & Usage how to keep a Parliament. in Holin. Chron. of Ireland, p.* 101, to 120. *Minsh. Dictionary Tit.* Parliament.

(*t*) *Fortescue, c.* 10 to 15. *Bract. l.* 1, *c* 8. *l.* 3. *c* 9. *Fleta l.* 1. *c.* 5. 17. *Brook, Pate.* 25, 41, 12, 51, 53, 69, 73, 100 & Prerogative, 15, 103. *Commissi.* 15, 16. *See Iudge Crooks, & Iudge Huttons Argume. against Shipmoney, petition of Right,* 3 *Carol. Br. Parli.* 42.

(*u*) *Of the Commonw. l.* 1 *c.* 10 *p.* 159.

(*x*) *l.* 2. *c.* 16. *f.* 34 *a. & l.* 1. *c.* 8 *f.* 5. *b. & Fleta l.* 1. *c.* 17. *Walsing. Hist. p.* 36, 37, 40.

(*y*) See Sir *Thomas Smiths Common-wealth of England: l.* 2. *c.* 1, 2, 3. *Holinsheds Description of England, c.* 8. *p.* 173. *& Chronicles of Ireland, p.* 101, 102. *M. Hackwels manner of passing Bils, Sect.* 8. *p* 74. *Brook Parliament* 4. 107 33 *H.* 6. *c.* 33. 33 *H.* 8. *c.* 21. *Cromptons Iurisdiction f.* 7 *b. Br. Parliament* 26, 39, 40, 41.

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bly conceive, that the originall, prime, Legislative power of making Lawes to *binde* the Subjects and their Posterity, rests not in the Kings owne Royall person, or Jurisdiction, but in the Kingdome, and Parliament, which represents it.

For first, admit the King should propound any Lawes to his people (as Kings and Law-givers usually did at first) yet these Lawes wou'd no wayes obli ge them, unlesse they voluntarily consented and submitted to them in Parliament; and the sole reason why our Acts of Parliament binde the Subjects in former times, and at this day, is, not because the King willed them (*z*) but because the people gave their generall consents unto them in Parliament, as Sir *Thomas Smith* in his Common-wealth of *England*, *Holinshed*, the *Prologues* to most ancient Statutes, (the King by the advise, and assent of the Lords Spirituall and Temporall, and Commons, and at the speciall request of the Commons in Parliament assembled, and by THE * AUTHORITY OF THE SAME PARLIAMENT, doth grant and ordaine, &c.) The Kings Coronation Oath, *Quas vulgus Elegerit*, and all our Law-bookes resolve, and that upon this received Maxime of Law; *Quod omnes tangit ab omnibus debet approbari.* Hence* *Marius Salamonius* defines a Law to be, *Expressa Civium Conventio*; and averres, that *Ligatur populus suis legibus, quasi pactis conventis, quæ verè sunt Leges*: And he likewise proves at large, *That the Lawes to which Princes assent are more the Peoples Lawes than the Kings*, because *Kings doe passe and grant them but as the publicke Ministers of the people*, and by their command and direction, and they could neither assent to Lawes, nor doe any other Act of Royalty unlesse the people had given them such authority: with which *Fortescue* concurres, *c.* 9. 13, 14. The King in passing Bils, doth but like the Minister in Marriage, declare it to be a Law; but it is the parties consents which makes the Marriage, and the people's onely that makes it a Law to binde them; whence those in (*a*) *Scotland*, *Ireland*, *Man*, *Garnsey*, *and Jersie are not bound by our English Statutes*, *nor Tenants in Ancient Demesne*, as hath beene oft times judged; *because they consented not to them.* Therefore the chiefe Legislative power is in the people and both Houses of Parliament, not in the King: as it was in the *Roman* State, where the (*b*) people had the Soveraigne Jurisdiction of making and confirming Lawes to binde them, not their Kings, Emperours, or Senate, as I shall hereafter manifest.

Secondly, This appeares by the case of (*c*) Customes, of By-Lawes in Corporations and Manours, which binde all the Corporation and Tenants (if they be reasonable) without the Kings or Lords consents, by reason of their mutuall assents alone; and as these private By-Lawes oblige all those who consent to them by reason of their owne free assents onely, so doe all publicke Acts of Parliaments obliege all Subjects, onely *because of their generall assents to them in their Knights, Citizens, and Burgesses, elected by and* (*d*) *representing their persons.*

Thirdly, all (*e*) Bills or Acts of Parliament are usually made, framed, altered, thrice read, engrossed, voted and fully agreed upon in both Houses, without the Kings personall knowledge or privity for the most part, before they come to have his Royall assent. And when they are thus agreed on by both Houses, the King cannot alter any one word or letter in them (as the Houses may doe) but must either absolutely assent to, or consider further of them. And if the King send any Bill he desires to have passe, it must be thrice read and assented to in both Houses (which have power to reject, alter, enlarge, or limit it as they thinke meete) else it can be

(*z*) 4 *H.* 7. 18. 7 *H.* 7. 14. 11 *H.* 7. 27. 33 *H.* 6. 17. *Br. Parl.* 44. 40. 75. 107. *Crompt. Jurisd. f.* 8. *a. Bro. Antient Demesne*, 20. 1 *H.* 7. 2. *c.* 8. 3 *H.* 8. *c.* 17. † *Sect.* 2. 7 8, 12 14, 17. 4 *H.* 7. * *Dr. Powell in his Interest of England p.* 35, 36 & *p.* 39, & 93.

(*a*) *Cooke* 7. *Calvins case*, 7 *H.* 6. 35 *b. Dyer*, 373. *Rot. Parliament*, 98.

(*b*) *Livie Hist. l.* 1 & 2. *Bodin Commonwealth*, *l.* 1. *c.* 10.

(*c*) *Finx. Assiz.* 413. *Audley* 74. *Prescrip.* 67. *Br. Custome* 31 *Co.* 5 *Rep. f.* 63, 64. 67, 68. *Kitchin* 45. 73. 80.

(*d*) *See Sect. c.* 1

(*e*) 33 *H.* 6. 17. *Br. Parl.* 4. *Mr. Hackwel, of passing Bills. Com. Inst. f.* 8. *Chron. of Ireland f.* 127 to 130.

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no Act at all. A cleare Demonstration, that the chiefe power of enacting and making Lawes is onely in the people, Commons, and Peeres, not the King: who by his Writ doth purposely summon them to meete and enact Lawes, as the chiefe Legislators. Witnesse this notable clause in the (y) Writ for the Election of Knights, and Burgesses: *Ita quod iidem Milites plenam & sufficientem Potestatem pro* SE *&* COMMUNITATE *Comitatus prædicti, & dicti Cives & Burgenses pro* SE *&* COMMUNITATE *Civitatum & Burgorum prædictorum divisim ab ipsis habeant,* AD FACIENDUM ET CONSENTIENDUM HIS *quæ tunc & ibidem* DE COMMUNI CONSILIO DICTI REGNI (not *Regis*) *nostri contigerint* ORDINARI *super negotiis antedictis. Ita quod* PRO DEFECTU POTESTATIS HUJUSMODI, *&c. dicta negotia* INFECTA NON REMANEANT *quovis modo*: answerable to which is that clause in *Pope Elutherius* his Epistle to our first Christian King *Lucius*, about *An.* 185. *Ex illis Dei gratia,* PER CONSILIUM REGNI VESTRI SUME LEGEM, *& per illam Dei potentia vestrum reges Britania regnum.*

(y) *Cromp. Iurisd. of Courts, f.* 12. & at the end *of the manner of holding* Parliaments *in England*

Fourthly, all publicke Acts are the whole Kingdomes Lawes, not Kings alone, made principally and solely for the Subjects benefit, if good; their prejudice, if ill: therefore the whole Kingdome (represented in and by both Houses, not the King) knowing much better what is good or bad for themselves, than the King alone, it is (z) just and reasonable that they, and not the King, should be the principall Lawmakers, to binde or burthen themselves with any new Lawes, penalties or restraints.

(z) See *r s t u* before.

This is the ground of that notable Rescript of the Emperour *Theodosius* to the *Roman* Senate; which proves the *Roman* Emperours to have no right, nor power to declare or make Lawes, but by the Senates concurring assent and approbation, * *Humanum esse probamus, si quid de cætero in publica privatave causa emerserit necessarium, quod formam generalem & antiquis Legibus non insertum exposcat, id* AB OMNIBUS *autem tam Proceribus nostri Palatii, quam glorioßissimo cætu vestro, Patres conscripti, tractari: & si* UNIVERSIS *tam Judicibus, quam* VOBIS *placuerit, tunc legata dictari; & sic ea denuo* COLLECTIS OMNIBUS *recenseri: &* CUM OMNES CONSENSERINT, *tunc demum in sacro nostri numinis consistorio recitari: ut* UNIVERSORUM CONSENSUS, *& nostræ Serenitatis authoritate firmetur. Scitote igitur, Patres conscripti,* NON ALITER IN POSTERUM LEGEM *a nostra clementia* PROMULGANDAM *nisi supradicta forma fuerit observata. Bene enim cognoscimus quod cum vestro consilio fuerit ordinatum* ID AD BEATITUDINEM NOSTRI IMPERII ET AD NOSTRAM GLORIAM REDUNDARE. Therefore doubtlesse he deemed the Senate the chiefe Legislators, as knowing better than himselfe, what conduced to the beatitude of the Empire, and to his owne Imperiall honour, and never dreamed of any negative voyce annexed to his Imperiality, to deny such Acts as they once Voted for usefull publicke Lawes.

* *Justinian Cod. l.* 1. *Tit.* 17. *Lex* 8.

Fifthly, It is cleare, that all Acts which give any Subsidie, Taxes, Penalties, or forfaitures to the King, are made onely by the People in Parliament, and not principally by the King, since the King cannot be said in any propriety to give any thing to himselfe. This is undenyable by the forme of penning all subsidie Bills granted by the Commons or Clergy. Your Commons assembled in your High Court of Parliament,

liament,&c. humbly present your Majesty with *the free and chearefull gift of two entire Subsidies, which we humbly beseech your Majesty graciously to accept, &c. Your Majesties faithfull Subjects the Prelates and Clergie, &c. with one agreement and uniforme consent, have given and granted, and by these presents doe give and grant to your Highnesse, &c. foure intire Subsidies, in manner and forme as followeth.* And by the Kings assent to these Bills, (a) *Le Roy remercy ses Loyalx Subjects accept* LOUR BENEVOLENCE, &c. the Commons having the sole power to grant or deny (b) Subsidies and Taxes when they see cause, and to limit the proportion of them, the manner and time of paying them; and to order how and by whom they shall be received and imployed; as all Acts of this nature manifest. If then they be the chiefe Law-makers in these Acts which lay any imposition upon the Subjects goods, or restraint on his person; then by like reason in all other penall publicke Lawes. This is infallibly cleare by the Kings * Coronation Oath; who sweares, *That he will grant, fulfill and defend* ALL RIGHTFULL LAWES *and* CUSTOMES the which THE COMMONS OF THE REALME SHALL CHUSE, *and shall strengthen and maintaine them after his power.* If the Commons then are to chuse Lawes, and the King by his Oath bound to grant, strengthen, maintaine and defend them when chosen by them, then doubtlesse they are the chiefe Legislators, not the King: whence *Fortescue c.9.* resolves, *That the People of England, are ruled by such Lawes as themselves chuse or desire: And that their Lawes are their owne, not the Kings.*

(a) *Hackwel. passing of Bills, fol.8 p.78.*

(b) See Rastall Tax. & Tenths the Acts of Subsidies, 21 *Jac.* & this present Parliament. *Sp. p.745.*

* See *part* 2 p. 74,75.

Seventhly, all Acts of Parliament made in the Reignes of usurpers who have no Title to the Crowne, nor right to assent to Lawes, are (c) *firme and good in Law, and shall binde the right heires to the Crowne*, as is evident by the Lawes made by King *John*, *Henry* the 4,5,& 6. (reputed usurpers by *Edward* the 4.) and *Richard* the 3. acknowledged an usurper, whose Lawes are yet in force. The reason is (as is cleare by 1 E. 4.c.6.) because these Lawes, and all other Judiciall Acts in Courts of Justice, are the Acts of the Parliament and Courts themselves, which are lawfull; not of the usurping King, who is unlawfull. Therefore certainely the Legislative power is more in the Parliament than in the King, if not wholly in it, there being Lawes and kingdomes before Kings were.

(c) See 1 E.4 c. 6.4 E.4. 10,9 E. 4 1,2. *Br. Charters de Pardon*, 22.13 *Eliz.* c.1

Eightly, There are good and binding Lawes in many Aristocraticall and Democraticall States (as in (d) *Venice*, *the Netherlands*, *Geneva*, *Florence*, *Switzerland*, and other *Republickes*) where there are no Kings at all: Yea, there were such obligatory Lawes in *Bohemia*, *Poland*, *Sweden*, *Spaine*, *Hungary*, and other Realmes, before they were erected into kingdomes; which remained in full force, and efficacy, and still bound both King and People after they became kingdomes; And the (e) *Romans*, *Athenians*, *Lacedemonians* Lawes of old made under their Kings, survived and continued in their vigour, after their Kings were abandoned, and the very forme of their states quite altered into an Aristocracy; yea the Lawes made by the Roman Senate and People, continued in force after their Emperours were erected; and the very *Lex Regia* (recorded by (f) *Salmonius*) which *created, limited, and defined the very Prerogative, Power and Authority of the Roman Emperours, was made onely by the Senate and People, who by that Law gave sometimes more Authority to one Emperour than to another; and restrained the power of some Emperours more than others, and subjecting them to some Lawes from which they exempted others*; and therefore doubtlesse were the supreamest Lawgivers, and the Soveraigne power above the Emperour) as (g) *Marius Salamonius*,

(d) See the Republicke of those States, & *Bodin*, l.1 c.10. l.2,c.3,4,& 5.

(e) *Arist. Polit.* l.1.2.3.4.5. *Bowers Roman Antiquities.*

(f) *De principatu* l.6.p.125,&c 126.

(g) *De principatu* l.1,2,3,4,5. 6. *passim.*

and * *Bodin* prove at large. And the Emperour *Theodosius* is not ashamed to professe as much in his Edict to *Volusianus*, in these termes: *Digna vox Majestate regnantis LEGIBUS ALLIGATUM SE PRINCIPEM PROFITERI: ADEO DE AUTHORITATE JURIS NOSTRA PENDET AUTHORITAS: & revera majus Imperio est summittere Legibus Pincipatum. Et oraculo præsentis Edicti, Quod NOBIS LICERE NON PATIMUR, aliis indicamus.* If then Lawes may thus be made where there are no Kings, by the peoples joynt consents alone; If Lawes enacted in a State before by consent it be made a Kingdome, remaine in force after it is erected into a kingdome, and continue after it ceaseth to be a kingdom, only by and for the peoples consenting to them; as is evident by infinite, examples; and the people, Parliament, Senate, have ancientlly made, and may make Lawes even to binde their Kings, and Soveraignes themselves in points of their Prerogative and power; then doubtlesse they, and not Kings are the chiefe Soveraigne Legislators; and their Royall assents to Lawes, are no wayes essentiall to the very being of Lawes, but rather a complementall Ceremony.

* *Justin. Codicis l. 1. Tit. 17 Lex 4.*

(*d*) The true difference, &c. *part 3. p. 416.* * *Hieron. Blanca Rer. Arag. Com. p. 588, 589.* (*e*) *Fox Act. & Monu. vol. 1. p. 173. Spee. Hist. p. 244.* * *Mat. West. An. 1273. p. 353. Dan. p. 185.* See *Speed & Holin. 1 E. 1.* (*f*) See *Nubrig. Spee. Hol. Mat. West.* & others in the lives of R. 1. H. 1, 2, 3, 4 5, 6, 8. Ed. 1, 2, 3, 4. (*g*) *Walsing hist. Angl An. 1422. p. 458. Spee p. 1108. Grafi. p. 496, 447, 648. Fab p. 470. Hall f. 170, to 183. Hoved. Annal. pars posterior. p. 702, 703, 705, 706* (*h*) *Acts & Mon. old Edit p 705.* See *Hol. Speed, Grafi.* in their lives.

Ninthly, admit the King should dye without Heire, no doubt the kingdome and Parliament have a just right either to alter the government, or dispose of the Crown to what family they please (as the constant practise of all kingdomes in such cases manifests, and (*d*) Bishop *Bilson* himselfe assureth us; *That all Nations once members of the Roman Empire, when the right Heires failed, were suffered to elect their Governours, where they pleased, as the Romans themselves might doe*) and no doubt they may make binding publike Lawes during the *Inter-regnum*: as the kingdome and Estates of * *Aragon* did during their *Inter-regnums*. Yea, if the King be an infant (as *Henry* the 3. *Henry* the 6. *Edward* 3. 5. and *Richard* 2. with other our Kings were, when the Crowne descended to them) or *non Compos Mentis*, or taken with a dead Palsie or Apoplexie, or an Ideot by birth or Age, or a Monke professed, (as (*e*) some Kings have beene) or absent in a Pilgrimage to *Rome*, or a voyage to the Holy Land, (As the * *Lords* and *State* Assembled at the *New Temple*, after the death of King *Henry* the third, during his Sonne King *Edward* the 1. his absence in the *Holy Land*, *Proclaimed him King, swore fealty to him*, CAUSED A NEW SEALE TO BE MADE; appointed fit *Officers and Ministers, for the Custody of his Treasure and Peace*, and proclaimed his Peace throughout the Realme) or other remote foraine parts by reason of warres, as (*f*) divers of our Kings heretofore have beene; and so unable personally to consent to Lawes; no doubt in all such cases, the right of creating a *Protector to execute regall power, summon Parliaments, assent to Lawes, is onely in the* (*g*) *Parliament*, which may in these cases make any publicke Acts without the Kings personall presence or assent; and the assent of the *Regent* or *Protector*, usually created by them, shall as firmely binde the King, as if he had personally consented, as is evident by all the Acts of Parliament passed during the minority of (*h*) *Henry* the third, who was but nine yeares old; *Edward* the third, who was but thirteene; *Richard* the second, who was but eleven yeares of age; *Henry* the sixt, who was but nine moneths old; *Edward* the fifth, but twelve yeares; *Henry* the eight not eighteene yeares; *Edward* the sixt but nine yeares of age, when they began their Reignes; and so uncapable of giving any personall consent to Lawes by themselves (of which they could not judge, but by their *Protectors*,) and by all Acts made in the absence

of

of King (*i*) *Richard* the first, *Edward* the 1,2,3,4. *Henry* the 3.2,3,4,5,6. and others out of the Realme; all good and binding Lawes, as appeares by 28 H. 8. c. 17. which altered, and 33 H. 8.c.21. which declareth the Law in these particulars. A cleare demonstration, that the Parliament is the most absolute Supreame power, and Law-giver, not the King.

(*i*) See *Hoveden Annal. pars posterior*, p 702, 703,705, 706.

Tenthly, The King hath little or no hand in making, but onely in assenting to Lawes, when they are made by the Houses; as the usuall forme of passing Acts (*Le Roy le veult, The King wills (or assents to) it*, not before, but after they have passed both Houses, imports: which assent of his, if the Bils be publike and necessary for the Common good, is not meerely arbitrary at the Kings will, but the King by Oath and duty is bound to give it, and the Lords and Commons may in justice demand it of meere right, as I shall shew anon. His Royall assent then, though it be the last act which compleates Bils, and makes them Lawes, yet since it is but an assent to a Law formerly made by both Houses, which he cannot alter in any point: Yea, an assent, which the King in Honour, Law, Justice, Duty, by vertue of his Coronation Oath, is bound to give, as appeares by the Prefaces of most Statutes, the Statute of *Provisours*, 25 E.3. Parl.6.20 E.3. and other Acts) it is so farre from proving the King the Supreame power and Law-giver, that it manifests the contrary, that this power principally resides in both the Houses, not the King.

Eleventhly, The kingdomes Soveraignty and supreame jurisdiction above the King is most apparent by those Coronation Oathes, which Parliaments and the kingdome anciently, long before, or at leastwise in King *Edwards* dayes, before and ever since the Conquest, have prescribed to our Kings ere they would accept of them for their Soveraignes, of which I shall give you a short account.

(*n*) *Fox Act. & Mon. Edit.* 1641. *vol.* 1. *p.* 214. & *Lambards Archaion. Legis Edwardi c.* 17. Bishop *Bilson*, *par.* 3 *p.* 494.

Before the Conquest, I read in (*n*) *King Edward the Confessors Lawes*, not onely the *Office*, but *Oath* of the King of *England*, (whom he and *Bracton* oft stiles, *Gods and Christs Vicar upon earth*) thus excellently described. *A King ought above all things to feare God: to love and observe his Commandements, and cause them to be observed through his whole kingdome: He ought also to set up good Lawes and customes, such as be wholesome and approved, such as be otherwise, to repeale them and thrust them out of his kingdome.* Item, *he ought to doe Justice and Judgement in his kingdome, by the counsell of the Nobles of his Realme. All these things ought the King in his owne person to doe, taking his Oath upon the Evangelists, and the blessed Reliques of Saints; swearing in the presence of the whole State of his Realme (as well of the temporalty as of the spiritualty) before he be Crowned of the Archbishops and Bishops. Three servants the King ought to have under him as Vassals, fleshly lust, avarice, and greedy desire, whom if he keepe under as his servants and slaves, he shall Reigne well and honourably in his kingdome. He must doe all things with good advisement and premeditation: and that properly belongeth to a King: for hasty rashnesse bringeth all things to ruine; according to the saying of the Gospell; Every kingdome divided in it selfe shall be brought to desolation.* Master (*o*) *Fox* informes us, that *William the Conquerour* through the peoples clamour *promised to confirme this King Edwards Lawes, but the most part of them be omitted, contrary to his Oath at his Coronation.* Indeed, I finde not in * *William* of *Malmesbury*, *Henry Huntingdon*, *Matthew Paris*, or *Westminster*, that *William the Conquerour* tooke this Oath at his Coronation; but onely, that *he was received by the Clergie and people at London in great triumph*, & AB OMNIBUS REX ACCLAMATUS, and proclaimed King by them all, and then Crowned: but *Roger*

(*o*) *Vol.* 1 *p* 214

* In the life of *William* the first.

ger de Hoveden, and Daniel out of him, are expresse in point; that according to the accustomed forme, the Bishops and Barons of the Realme tooke their Oathes, *to be his true and loyall Subjects*; and he reciprocally, being required thereunto by *Aldred*, Arch-bishop of *Yorke*, who Crowned him, made his personall Oath before the Altar of the Apostle Saint *Peter*, in the presence of the Clergy and People; *That he would defend the holy Churches of God, and the Rectors of the same: Likewise that he would govern all the people Subject to him justly, and with royall providence*: RECTAM LEGEM STATUERE ET TENERE, (which referres to future Lawes) *that he would establish and observe* RIGHTEOUS LAWES; *and that he would utterly prohibit rapines, and unjust judgements.* Nor did he claime any power by Conquest, but as a regular Prince submitted himselfe to the Orders of the kingdome; desirous to have his Testamentary title (howsoever weake) to make good his Succession, rather than his Sword; the flattery of the time onely giving him the Title of Conquerour afterwards; but himselfe not claiming it. But *William* soone after forgetting this his solemne Oath, did (as * *Speed* with others write) *abrogate for the most part, the ancient Lawes of the Land, and introduce new hard Lawes of his owne, written in the Norman tongue, which the people understood not, and the Judges wrested at their pleasures, to the forfeiture of Goods, Lands, Life. Hereupon the Nobility and Natives, seeking to cast off these snares and fetters of his Lawes, set up Edgar Atheling for their King and Generall once again, & fell into a new conspiracy, raising great forces, & resolving to make the sword their judge.* The *King hereupon by Lanfrankes advise, who as Rehoboams sages, gave him counsell, somewhat to beare with their abuses, rather than hazard the ruine of all in fight, appointed a meeting at Berkhamsteed, Anno* 1172. *Where the King entring parley with the English Nobility, did so farre winde himselfe into their good opinions, that they all forthwith laid downe their weapons. And he for his part fearing to lose the Crowne with shame, which he had gotten with effusion of so much blood, gave his Oath upon the holy Evangelists, and the reliques of Saint Albane the Martyr* (the same being ministred to him by Abbot *Fredericke*) *swearing to observe, and inviolably to keepe the ancient Lawes of this Land, and most especially those compiled by King Edward the Confessor*; though (as the event soone shewed) he little meant to doe as he promised. Peace thus established; this conference ended, and the Kings Oath received, the *English* Armies disband themselves, as dreaming they had now good fortune by the foote, and hoping the greatest stormes of their dangers were past; which presently proved but a vaine surmise. For King *William* having compounded with the *Danes*, began extreamely to hate the English Nobles, and with full resolution of their destruction, suddenly set upon them apart, which hee durst not attempt when they were united; *so that* * *slaying many, imprisoning others, and persecuting all of them with fire and sword, well was he that could be first gone.* Such little faith, or assurance is there in the solemne Oathes and Protestations of Kings to their Subjects; which are seldome really performed, and intended onely as snares to intrap them, if they confide and rely upon them without any better security.

(a) After the death of *William the Conquerour*, *William Rufus* his younger sonne, in the absence of *Robert* the elder Brother, hastens into *England*, to obtain the Crown; and finding the greatest part of the Nobles against him; he gave his *solemne Oath and faith to Lanfranke Arch-bishop of Canterbury* his Tutor, *that if they would make choise of him for their King, he would abrogate the over-hard Lawes of his Father, and promise to observe justice, equity and mercy throughout the kingdome in every businesse, and defend the Peace*

and

* Hist. p. 440, 441.

* See Huntindon hist. l 7 p. 369. Mat. Par. hist p. 6.

(a) Mat. Westm. An. 1088. Eadmerus hist. l. 1. p 13, 14. Matth. Paris hist. p. 12, 13. Speed, hist. p. 456. Grafi. p. 21, 22. Malmsb. l 4. p. 119, 120.

and Liberty of the Church against all men; and ease them of all hard taxes. Upon which conditions, *volentibus omnibus Provincialium animis*, by the voluntary consent and voyces of all, he was chosen and Crowned King. Which promise and Oath he soone after brake, saying, *Who is it that can fulfill his promises?* Whereupon many of the Nobles, levyed warre against him, adopting *Robert* his elder Brother King. (b) *William Rufus* dying, *Henry* the first his younger Brother, in the life of *Robert* the right Heire assembling all the Clergy and people together to *London*, to procure their favour and love to chuse him for their King and Patron, He promised the Reformation of those Lawes, by which *England* had beene oppressed in the Reignes of his Father and Brother. To which the Clergy and Nobles answered; That if hee would with a willing minde reforme those rigorous Lawes, remit the Taxes imposed upon the Subjects, and by his Charter confirme those ancient Lawes and Customes which flourished in the kingdome in the time of holy King *Edward*, they would unanimously consent to him, and consecrate him for their King. Which he willingly assenting to, and affirming with an Oath that he would performe; he was by the assent both of Clergy and people consecrated King at *Westminster*, promising by Oath, to *confirme King Edwards Lawes, and renounce all oppression*; in pursuance whereof as soone as he was created, he by his Charter confirmed and reformed divers Lawes for the ease and benefit of his Subjects, recorded at large by *Matthew Paris*, *Speed*, and others. The beginning of this Charter is observable. *Henry by the Grace of God, of England, &c. Know ye, that by the mercy of God, and* COMMON COUNSELL *of the Barons of the Kingdome of England, I am Crowned King. And because the kingdome was oppressed with unjust exactions, I, out of respect to God, and the love I beare towards you all, make the Church of God free, &c. And all the evill customes wherewith the kingdome of England was unjustly oppressed, I take from thence, which evill customes I here in part set downe.* And in the end of his Charter, he confirmed and restored to them King *Edwards* Lawes, with those amendments of them which his Father made by the consent of his Barons. After which, those Lawes of his were published through all *England*, and *Ranulph* Bishop of *Durham* banished the Court and committed to the Tower, for his oppression, bribery, and other crimes. *Henry* deceasing (c) *Maude* the Empresse his right Heire (to whom the Prelates and Nobles had sworne fealty in her Fathers life time) was put by the Crowne by the Prelates and Barons; who thought it baseness for so many and great Peeres to be subject to a woman, and that they were freed of their Oath by her marrying out of the Realme, without their consents, and *Stephen* Earle of *Mortaine* (who had no good Title) assembling the Bishops and Peeres at *London*, promising to them an amendment of the Lawes according to all their pleasures and liking, was by them all proclaimed King; whereupon they all tooke their Oathes of Allegiance to him, *conditionally; to obey him as their King; so long as hee should preserve the Churches Liberties, and keepe all Covenants, and confirme them with his Charter*; according to the old Proverbe; *Quamdiu habebis me pro Senatore, & ego te pro Imperatore.* All this the King at his Coronation swore, and promised to God, the people, and Church to performe. And presently after going to *Oxford*, he (in pursuance of his Oath) there sealed his fore-promised Charter of many indulgent favours: the summe whereof was this.

(b) *Mat. Par. p. 52, 53, 54. Fulmerus hist. l. 2. p. 55. W. Malms. l. 5. p. 156. H. Hunt. l. 7. p. 378. Roger Hoveden, annal. pars 1. p. 468. Polych. l. 7. c. 11. Fab. par. 7. c. 226. p. 315. Graf. p. 32. Sp. p. 466, 467.*

(c) *Mat. Par. hi. p. 73. Malm. novella hist. l. 1. p. 178, 179, 180. Hen. Hunt. l. 8. p. 386, 387. Hove. p. 481, 482. Ma. West. An. 1136. p. 55. Sp. p. 483, 484. Graf. p. 41, 42.*

That all Liberties, Customes, and Possessions granted to the Church, should be firme and

in force; that all bad usages in the Land touching Forests, exactions, and annuall Taxes which his Ancestors usually received, should be eternally abolished; the ancient Lawes restored; prefacing therein, (*d*) *That he obtained the Crowne* BY ELECTION ONELY; *Hæc autem specialiter, & alia multa generaliter, se servaturum juravit; sed nihil horum quæ Deo promiserat, observavit*, write *Matthew Paris, Hoveden*, and *Huntindon. Pene omnia perperam mutavit, quasi ad hoc tantum jurasset, ut prævaricatorem Sacramenti se regno toti ostenderet*, saith *Malmesbury*. **Granting those immunities rather to blinde their eyes, than with any purpose to manacle his owne hands with such parchment chaines*: Such faith is to be given to the solemnest Oathes of Kings. But this his perjury was like to cost him his Crowne, his Prelates and Peeres thereupon revolting unto *Maude*. The form of King *Henry* the second his Oath I finde not; onely I read (*e*) *that upon his Coronation he caused the Lawes to be reformed, by advise of discreet men learned in the Law, and by his Proclamation commanded, that the good Lawes of his Grand-father* Henry *should be observed and firmely kept throughout the Realme.* Wherefore it is probable, he tooke the same Oath that he did. (*f*) *Richard* the first, succeeding, at his Coronation in *Westminster* Church comming to the High Altar, before the Clergy and people tooke this solemne Oath upon the Holy Evangelists, and many Saints reliques. 1. *That all the dayes of his life he would beare peace, honour, and reverence to God, and holy Church, and the ordinances thereof.* 2. *That to the people committed to his charge, he would exercise Right, Justice and Equity.* 3. *That he would abolish naughty Laws and Customes if any were brought upon his kingdome; and would enact good Lawes, and the same in good sort keepe, and without Mal-engin.* Which Oath most solemnely taken, *Baldwin* Arch-bishop of *Canterbury*, standing at the Altar, forbad him in the name of Almighty God, to assume that honour, UNLESSE HE HAD A FULL PURPOSE TO KEEPE WHAT HE HAD SWORNE; Whereunto *Richard* ASSENTING, and *promising by Gods helpe to performe all the premises* WITHOUT FRAUD; With his owne hand humbly taking the Imperiall Crowne from the Altar, delivered it to the Archbishop, who set it on his head. (*g*) King *Richard* deceasing, *John* his younger Brother, to put by *Arthur* the next heire to the Crowne, came speedily out of *Normandy* into *England*; where the great assembly at *Northampton*, to preserve their Rights and Liberties, were content *to accept of him for their King, to yeeld fealty, and keepe faith and Peace to King John upon condition onely, if he would restore to every of them their Rights*; which, he afterwards violating it, was the occasion of great dissentions. Comming to *London* to be Crowned, *Hubert* Archbishop of *Canterbury*, (*the Pillar of the Common-wealths stability, and incomparable for deepe reaching wisedome*) steps forth in the midst of all the Bishops, Lords, Barons, and others there assembled at his Coronation, and spake thus unto them. *Heare yee all, you are in discretion to know, that no man hath right, or any other fore-title to succeed another in a kingdome* * *unlesse first* (*with invocation for grace, and guidance of Gods Spirit*) *he be* BY THE BODY OF THE KINGDOME THEREUNTO CHOSEN, *and he indeed some choyce man, and picked out for some eminency of his vertues, according to the example and similitude of Saul the first anointed King, whom God set over his people, though neither the Sonne of a King nor of any royall descent. So after him likewise David the son of Jesse; the one for being valorous, and a person fitting Royall dignity, the other for being holy and humble minded. To shew, that whosoever in a kingdome excelleth all in valour and vertue, ought to surmount all in Rule and Authority: yet so, as that, if any of the Of-spring of a deceased King surpasseth others, it is fit joyntly to consent in election of such a one. This there-*

fore

d *Assensu. Cleri & populi in Regem Angliæ electus. Malm. p.* 179.

* See *Speed p.* 483,484.

(*e*) *Hoveden p.* 491. *Graf p.* 50.

(*f*) *Mat. Par. p.* 147. *Hoved p.* 657. *Walsi. Ypodig. Neustr. An.* 1189. *p.* 45,46. *Speed p.* 530.

(*g*) *Hoveden p.* 793 *Mat. Par. p* 189,190. *Sp. p.* 548, 549. 550 See *Poly. Virg. Hol. Dan. p.* 127, 128.

* A strange Arminian Doctrine.

fore we have spoken in favour of eminent Earle John, *who is present, the Brother of our most illustrious King* Richard *now deceased, wanting an heire of his body; whom being provident, valiant, and truely noble, we having invocated the grace of the holy Spirit, have all unanimously* ELECTED, *as well in regard of his Merits, as of his royall Blood.* Neither durst any doubt or demurre on these things, knowing that the Arch-bishop had not thus defined without cause. Wherefore Earle *John*, and all men approving this speech, they ELECTED and ASSUMED the Earle for their King, and cryed out saying, *Let the King live.* But the Arch-bishop being afterwards demanded, why he had spoken these things? answered, *That he was assured by some divining foresight, that King* John *would worke the ruine of the kingdome, corrupt the Crowne, and precipitate it into great confusion.* And *that he might not have the reines free to doe this, he* OUGHT TO BE CHOSEN BY ELECTION, NOT BY SUCCESSION. King *John* at this his Coronation was involved in a *threefold Oath*: namely, *That hee should love holy Church and its Ministers, and preserve it harmelesse from the incursion of Malignants; That abolishing perverse Lawes, he should substitute good ones, and exercise Right judgement in the kingdome of England.* After which he was *adjured by the Arch-bishop, in the behalfe of God, and strictly prohibited, not to presume to accept this honour unlesse he fully purposed in his minde, actually to fulfill what he had sworne.* To which he answering, *promised that by Gods assistance he would bona fide keepe those things which he had sworne.* After which he rightly setled the affaires of *England* by the counsell of his Nobles, and then passed over into *Normandy*. But how ill he kept this his Oath, with others of this nature; and how he violated the Statutes of *Magna Charta* and *De Foresta*, which he had confirmed with his hand, seale, Oath, Proclamations, the Bishops Excommunications, yea, the Popes Bull, within three moneths after he had confirmed them, and procured a dispensation of his Oath, an abrogation of these Lawes from the Pope, making bloody warres upon his Barons and Subjects (who confiding to those confirmations and royal promises expected no such strange performances) spoyling, robbing, destroying his people every where, in the selfe-same manner as we now are plundered;* the Histories of his life too manifestly relate; which oft put his Crown in danger of utter losse, *Lewis of France* being Crowned King by the Barons in his stead, who renounced their allegiance to him, for his perjuries and breach of faith and making warre upon them. *John* departing this life, his son *Henry* being but 9. yeares old, was proclaimed King, through the perswasion of the Earle Marshall and of *Pembroke* (afterwards made his Protector,) who informed the Lords and Commons, (*h*) that *though King John for his evill demeanours deserved their persecution and losse of his Crowne, yet his young child, tender in yeares, was pure and innocent from his Fathers doings. Wherefore sith every man is to be charged with the burthen of his owne transgressions, neither shall the childe* (*as Scriptures teach*) *beare the iniquity of his Fathers, they ought of duty and conscience, to beare themselves mildly towards this tender Prince, and take compassion of his age. And for as much as he was Johns naturall and eldest sonne, and ought to be their Soveraigne, let us with one joynt assistance APPOINT HIM our King and Governour, let us renounce from us Lewis the French Kings Sonne, and suppresse his people, which are a reproach and shame to our Nation and the yokes of their Servitude let us cast from our shoulders.* Upon which perswasion *Henry* was presently proclaimed and Crowned King at Glocester. And though he were but an infant, yet being (*i*) set before the High Altar, he swore before the Clergy and people upon the Holy Evangelists and divers Saints Reliques, *Joceline Bishop of Bath dictating the Oath, That he would beare honour, peace and reverence to God, to holy Church and Priests, all the dayes of his life.* He likewise swore, *that he would maintaine right justice among the People committed to his charge; And that he would blot out ill Lawes and unjust customes,*

* See before *p.* 9. 10. *Mat. Par. p.* 243, to 247. worthy reading & consideration

(*h*) *Fox Acts & Mon. Edit. ultim. 1. p.* 334. *Speed p.* 591.

(*i*) *Mat. Par. p.* 278, 305.

stomes, if there should be any in the kingdome, and observe good ones, and cause them to be kept by all men: How well he observed this solemne Oath, with many others of like nature made to his Lords and Subjects, for confirmation of *Magna Charta*, and their Liberties, (*k*) *Matthew Paris* will informe us; who writes, *That the King in all his Oathes and promises did so farre transgresse the bounds of truth, that the Prelates and Lords knew not how to hold this Proverb, the King; for where there is no truth, there can be no fixed confidence: That though he sometimes humbled himselfe, confessing that he had beene often bewitched by ill counsell, and promised with a great Oath solemnely taken upon the Altar and Coffin of Saint* Edward, *that he would plainely and fully correct his former Errors, and graciously condescend to his naturall Subjects good counsell; yet his frequent preceding breaches of Oathes and promises, Se penitus incredibilem reddiderunt, made him altogether incredible, so that (though he usually heard three Masses every day, but seldome any Sermons (as* (*l*) *Walsingham* notes) yet none would afterwards *believe him, but ever feared and suspected his words and actions*, and to avoid the infamy of perjury, which he feared, *he sent to the Pope to absolve him from his Oathes he repented of, who easily granted him an absolution.* Such faith, such assurance is there in the Oathes, the Protestations of Princes to their Subjects; whose Politicke capacities oft times have neither soule nor conscience, and seldome keepe any Oathes or promises, no further than it stands with their owne advantages, reputing onely *pious frauds*, to over-reach and intrap their credulous people. This perfidiousnesse in the King, made his long Reign full of troubles, of bloody civill warres, and oft times endangered the very losse of his Crowne and Kingdome, as our Historians informe us, for which he repented and promised amendment at his death.

(*k*) In his Edition *Tigur.* 1589 *p.* 876. 933, 958, 959, 960.

(*l*) *Hist. Ang. p.* 1,

(*m*) *Lib. 3. c. 9. f.* 107.

(*m*) *Bracton* an antient Lawyer in this Kings daies, writes. *That the King in his Coronation* OUGHT *by an Oath taken in the name of Jesus Christ, to promise these three things to the people subject to him. First, that he will command and endeavour to his power, that true peace shall be kept to the Church and all Christian people in his time. Secondly, That he will prohibit rapines (or plunderings) and all iniquities, in all degrees. Thirdly, That in all judgements he will command equity and mercy, that so God who is gracious and mercifull may be shew his mercy on him and that by his justice all men may enjoy firme peace.* For (saith he) *a King is* SACRED and ELECTED (to wit, by his Kingdome) *for this end, to doe justice unto all; for if there were no justice, peace would be easily exterminated, and it would be in vaine to make Lawes, and doe justice unlesse there were one to defend the Lawes, &c.*

The forme of the Kings Coronation Oath ever since *Edward* the second hath beene this, and is thus administred (*p*) *The Metropolitan or Bishop that is to Crowne the King, with a meane and distinct voyce shall interrogate him, if he will confirme with an Oath the Lawes and Customes granted to the people of England, by ancient, just, and devout Kings towards God, to the same people, and especially the Lawes, and Customes, and Liberties granted by glorious King Edward to the Clergie and People.* And IF HE SHALL PROMISE that he will assent to all these; Let the Metropolitan or Bishop expound to him, what things he shall sweare, saying thus. *Thou shalt keepe to the Church of God, to the Clergie and people, peace entirely, and concord in God, according to thy power*; The King shall answer, *I will keepe it. Thou shalt cause to be done in all thy judgements, equall and right justice, and discretion, in mercy and verity, according to thy power:* He shall answer; *I will doe it. Thou grantest just Lawes and Customes to be kept, and thou doest promise, that those Lawes shall be protected and confirmed by thee to the honour of God,* QUAS VULGUS ELEGERIT, *which the people shall chuse, according to thy power*: He shall answer; *I doe grant and promise.* And there may be added to the foresaid Interrogations, what other things shall be just. All things being pronounced, he shall with an Oath upon the Altar prefently taken before all, confirme that he will observe all these things.

(*p*) *Mag. Char.* Printed *Cum Privilegio* London 1558. part 2. *f.* 1640. *Jaramentum Regis quando coronatur Remonstrance, Nov.* 2. *p.* 25. to 38.

There hath beene a late unhappy difference raised betweene the (*q*) King and Parliament about the word ELEGERIT; the Parliament affirming the word to signifie, *shall chuse*; according to sundry written Rolles and Printed Copies in Latine and French, the King on the contrary affirming, it should be *hath chosen*; But he that observes the words of these ancient Oathes: *Populo tibi commisso rectam justiciam exercebis, malas leges & iniquas consuetudines, si aliquæ fuerint in Regno tuo, delebis, & bonas observabis*, all in the future tence: and the verbes, *servabis, Facies fieri, protegendus, corroborandus* in the former and same clauses of the Oath now used, all of them in the future, with the whole Scope, intent and purport of this part of the Oath, must necessarily grant, *shall chuse*, to be the true reading; *and that it referres to the confirmation of* * *such Lawes, to be afterwards made in Parliament*, not to those onely in being when the Oath was administred; else Kings should not be obliged by their Oathes, to keepe any Lawes made after their Coronations by their owne assent, but onely those their Predecessors assented to, nor themselves, which were most absurd to affirme. But because I have largely debated this particular, and given you an account of our Kings Coronation Oathes from King *Richard* the seconds Reigne downeward, in my following Discourse, and debate of the Kings *pretended Negative voyce in passing Bills* in Parliament, I shall proceed no further in this subject here.

(*q*) See the Parliaments Remonstrance of the 26 of *May*, F 9. His Majesties Answer thereto, p. 16, 17. & the Parliaments Reply, *Nov.* 2. *p.* 29. to 38.

* Judge *Hutton's* Argument against Ship-money, p. 32. determines so.

From

From these severall Oathes and Passages, the usuall forme of the Nobles proclaiming such and such Kings of *England*, the (r) fore-cited Historiens; the manner of our Kings Coronation thus expressed in the close Roll of 1 *R.* 2. n. 44. *Afterwards the Archbishop of* Canterbury *having taken the corporall Oath of our Lord the King, to grant and keepe, and with his Oath to confirme the Lawes and customes granted to the people of the Kingdome of* England, *by ancient, just, and devout Kings of* England, *the progenitors of the said King, and especially the Laws, Customes and Freedomes granted to the Clergy and people of the said Kingdome, by the most glorious and holy King* Edward, *to keepe to God and the holy Church of God, and to the Clergy and people, peace and concord in God entirely, according to his power, and to cause equall and right Justice to be done, and discretion in mercy and truth, and also to hold and keep the just Lawes and customes of the Church; and to cause that by our said Lord the King they should be protected, and to the honour of God corroborated, which the* PEOPLE SHOULD JUSTLY AND REASONABLY CHUSE *to the power of the said Lord the King: the aforesaid Archbishop, going to the foure sides of the said Scaffold, declared and related to all the people, how that our Lord the King had taken the said Oath, inquiring of* THE SAME PEOPLE, IF THEY WOULD CONSENT TO HAVE HIM THEIR KING AND LIEGE LORD? Who with ONE ACCORD CONSENTED THERETO. Which *Thomas of Walsingham who relates the whole forme of this Kings Coronation thus declareth. Quibus completis, Archiepiscopus praecedente eo Mareschallo Angliæ* Henrico Percy, convertit se ad omnes plagas Ecclesiæ, INDICANS POPULO REGIUM JURAMENTUM & quærens SI SE TALI PRINCIPI AC RECTORI SUBJICERE, *& ejus jussionibus obtemperare* VELLENT, ET RESONSUM EST A PLEBE *resono clamore*, QUOD LUBENTER SIBI PARERE VELLENT. Which custome both before and since hath been constantly in this Land observed at the Coronation of our Kings: from all these I say it is apparent: First, that Popish Parliaments, Peeres, and Subjects, have deemed the Crowne of *England* not meerely successive and hereditary, though it hath usually gone by descent, but *arbitrary and elective*, when they saw cause, many of our Kings comming to the Crowne without just hereditary Title, by the Kingdomes, Peeres, and peoples *free election only* confirmed by subsequent Acts of Parliament, which was then reputed a sufficient Right and Title; by vertue whereof they then reigned and were obeyed as lawfull Kings, and were then and yet so acknowledged to be; their right by *Election of their Subjects* (the footsteps whereof doe yet continue in the solemne demanding *of the peoples consents* at our Kings Inaugurations) being seldome or never adjudged an illegall usurpation in any Parliaments: whence the statute of 1 E. 4. c. 1. & 9 E. 4. f. 2. declares King *Henry* the 4. 5. and 6. *to be successively Kings of England indeed, and not of right, yet not usurpers because they came in by Parliament.* Onely *Richard the third, (who treacherously murthered Edward the 5. his Soveraigne, and violently usurped his Crowne, at first, before any Parliament gave it him, compelling the Lords and Commons afterwards to Elect him King out of feare, after his slaughter in* Bosworth field,) *was declared an usurper by Act of Parliament* 1 *Hen.* 7. c. 6. *and so adjudged to be by* 8 *H.* 7. f. 1. sec 1 E. 4. c. 1 &c. 9 E. 4. f. 1, 2. and *Henry the* 7. *had the Crown set upon his head in the field, by my Lord Stanly, as though (saith (s) Grafton) he had been elected king by the voyce of the people, as in ancient times past in divers Realmes it hath been accustomed.* Secondly, that those Kings who have enjoyed the Crown by succession, descent, or election, have

(r) Pag. 8, 9.

* *Hist Anglic.* 1 *R.* 2. p. 193.

(s) Pag. 852.

have ſtill taken it upon the conditions and covenants contained in their Coronation Oathes; which if they refuſed to ſweare to the Peeres and people, *really and bona fide to performe*, they were not then to be crowned or received as Kings, *but adjured in the name of God to renounce this dignity. And though in point of Law,* (t) *thoſe who enjoy the Crowne by Succeſſion, be Kings, before their Coronations*; yet it is ſtill upon thoſe ſubſequent * *Conditions both contained in their Coronation Oathes, which impoſe no new but onely ratifie the old conditions inſeparably annexed to the Crown by the Common Law,* ever ſince *Edward the Confeſſors daies*, and long before, as Father * *Littleton* reſolves, (the Office of a King being an *Office of the greateſt truſt of any other* which the *Common Law*, binds the King *well and lawfully to diſcharge, to doe that which to ſuch Office belongeth to doe*) as the Oathes of all our Kings to their people; *really to performe theſe Articles and Conditions*, fully demonſtrate. Thirdly, that theſe Oathes are not meerely arbitrary or voluntary at the Kings pleaſure, to take or refuſe them if he will, but neceſſary and inevitable, by the Law, and conſtant uſage of the Realm, yea of all (v) *Chriſtian moſt Pagan Realms whatſoever, which preſcribe like Oathes to their Kings.* From all which I may firmely conclude, *that the whole kingdome and Parliament are the Supreame Soveraigne Authority, and Paramount the king*, becauſe *they* * *may lawfully, and doe uſually preſcribe ſuch conditions, termes, and rules of governing the people to him, and bind him thus by Oath, faithfully to perform the ſame, as long as he ſhall continue King*; which Oath our Kings uſually tooke, or at leaſt faithfully promiſed to take to their Subjects in ancient times, before ever they did or would take an Oath of fealty, homage or Allegiance to them, as the premiſes evidence, & *Claus. Ret.* 1 *R.* 2. *M.* 44.

(t) *Cooke* 7. *Report.* f. 10, 11. *Calvins caſe. Marſil. Patavinus Defen. Pacis pars*, 2. c. 25.

* *Littleton*, ſect. 378, 379. & *Cookes Inſtit.* Ibid. f. 232, 233, 234.

(v) *Baldus Proem de Feud.* n. 32. Dr. *Crakenth.* defence of *Conſtantine*, p. 163. to 175: *Grimſt.* Imperiall hiſt. p. 653.

* See *Forteſcue*, c. 12, to 15. *Johan. Mar. de Rege & Regis Inſtit. l.* 1. c. 7, 8, 9.

Tenthly, Our Parliaments and Kingdome anciently in times of popery, and Paganiſme have both challenged and exerciſed a Supreame power over the Crowne of *England* it ſelfe, to transferre it from the right heire, and ſetle it on whom themſelves thought meete to elect for their King; and likewiſe to call their Kings to an account for their miſ-government, and breach of Oath to the prejudice of their people, ſo farre as to article againſt them, and either by force of Armes, or a judiciall ſentence in Parliament, actually to depoſe them, and ſet up others in the Throne, as the * *fore-cited preſidents* (of *Archigallo*, *Emerian*, two ancient *Britiſh Kings*, of *Edwin king of Mercia, and others deprived of all honour and kingly dignity, by the unanimous conſent of their Subjects for their Tyranny, Oppreſſion, Male-adminiſtration, vicious lives, and others elected and made kings in their places*) *evidence*, which Acts of theirs they then reputed juſt and legall. I ſhall cite you onely two preſidents of this kind, which have meere relation to Parliaments. The firſt is that of * King *Edward the ſecond*, who being taken priſoner by his *Queen, Sonne, Nobles*, for his male-adminiſtration; the Queen, with her ſonne by the advice of her Councell, ſummoned an high Court of Parliament at *Weſtminſter* in the Kings name, which began the 16 day of January, *An.* 1325. In which aſſembly it was declared, that this Realm could not continue without an head and governour, and therefore firſt, *they agreed to draw into Articles the Miſ-government of the king that was in priſon, and all his evill doings, which he had done by evill and naughty Counſell. And when the ſaid Articles were read and made knowne to all the Lords, Nobles, and Commons of the Realme, they then conſulted how the Realme ſhould be governed from thenceforth. And after good deliberation, and conſultation of the foreſaid Articles of the Kings evill government, they concluded*: THAT SUCH A MAN WAS NOT WORTHY TO BE A KING, NOR TO WEARE A CROWNE ROYALL. *And therefore they all agreed, that*

* *Walſingham, hiſt. Ang.* p. 107, 108, 109: *Ipodigma, Neuſtria*: p. 109, 110: *Polychron. l.* 7. *ch.* 43. *Polydor Virgil. hiſt. Angl. l.* 18. Sir *Thomas de la More. Grafton*, p. 215, 216. *Speed*, p. 681, 682. *Daniel*, p. 217, 218. *Holinſhed, Cayton*, 510. and others in his life.

that Edward *his eldeſt ſonne, who was there preſent, and was right full heire, ſhould be crowned King in ſtead of his Father,* SO THAT HE WOULD TAKE ABOUT HIM SAGE, TRUE, AND GOOD COUNCELL, *and that from thenceforth the Realm might be better governed then before it had been. And it was alſo agreed, that the old king his father ſhould be well and honeſtly kept as long as he lived, according to his eſtate.* All theſe things concluded, they ELECTED his ſon *Edward* King in the great hall at *Weſtminſter*, with the UNIVERSALL CONSENT OF THE PEOPLE THERE PRESENT; and the Archb. of *Canterbury* thereupon makes there a Sermon on this Text, *Vox populi, vox Dei*: exhorting the people, *to invoke the king of kings for him they had then choſen.* It was further ordered and agreed, that during the Parliament time, a ſolemne Meſſage ſhould be ſent to the King to *Kenelworth* Caſtle, (where he was kept priſoner) to declare unto him not only the determination of the three eſtates concerning HIS DEPOSING FROM THE KINGDOME, but alſo to reſigne unto him IN THE NAME OF THE WHOLE REALME, all their homage that before time they had done him: and to doe this meſſage, there was certaine ſelect perſons choſen by the Parliament, namely, the Biſhops of *Winchester, Hereford, and Lincoln, two Earles, two Abbots, foure Barons, two Iuſtices, three knights* for every County, and for *London*, the *Cinqueports*, and other *Cities* and *Burroughes*, a *certaine choſen number*, with the *Speaker of the Parliament*, whoſe name was Sir *William Truſſell*: who comming into the Kings preſence told him, *That the Commen-weale had received ſo irreconcileable diſlikes of his government, the particulars whereof had been opened in the Aſſembly at* London, *that it was reſolved never to indure him as King any longer. That notwithſtanding, thoſe diſlikes had not extended themſelves ſo farre, as for his ſake to exclude his iſſue, but that with univerſall applauſe and joy,* THE COMMON-WEALE HAD IN PARLIAMENT ELECTED HIS ELDEST SONNE, THE LORD EDWARD FOR KING. *That it would be a very acceptable thing to God, willingly to give over an earthly kingdome for the common good and quiet of his Country, which they ſaid could not otherwiſe be ſecured.* That yet his honour *ſhould be no leſſe after his reſignation then before it was; onely him the Commonweale would never ſuffer to raigne any longer.* They finally told him, *That unleſſe he did of himſelfe renounce his Crowne and Scepter, the people would neither endure him, nor any of his children as their Soveraigne; but diſclaiming all homage and fealty, would elect ſome other for king, who ſhould not be of the blood.* This meſſage ſtrucke ſuch a chilneſſe into the King, that he fell groveling to the earth in a ſwoun; which the Earle of *Leiceſter* and Biſhop of *Winchester* beholding, run unto him, and with much labour recovered the halfe dead King, ſetting him on his feet: who being come to himſelfe, the Biſhop of *Hereford* running over the former points, concludes, ſaying, as in the perſon of the Commonwealth, *That the king muſt reſigne his Diadem to his eldeſt ſonne; or, after the refuſall, ſuffer* THEM TO ELECT SUCH A PERSON AS THEMSELVES SHOULD JUDGE TO BE MOST FIT AND ABLE TO DEFEND THE KINGDOME. The dolorous King having heard this ſpeech, brake forth into ſighes and teares, & made at the laſt this anſwer, to this effect, *That he knew, that for his many ſinnes he was fallen into this calamity, and therefore had the leſſe cauſe to take it grievouſly. That he much ſorrowed for this, that the people of the kingdome were ſo exaſperated againſt him, as that they ſhould utterly abhor his any longer rule and ſoveraignty: and therefore he beſought all that were there preſent, to forgive and ſpare him being ſo afflicted. That nevertheleſſe it was greatly to his good pleaſure and liking, (ſeeing it could none other be in his behalfe) that his eldeſt ſonne*

was so gracious in their sight, and therefore he gave them thanks for chusing him their King This being said, then was a proceeding to the short Ceremonies of his resignation, which principally consisted in the surrender of his Diadem and Ensignes of Majesty to the use of his Sonne the new King. Thereupon Sir *William Trussell* the Speaker, ON THE BEHALFE OF THE WHOLE REALM, renounced all homage and allegiance to the said *Edward of Carnarvan*, late King, in these words following, I *William Trussell*, IN THE NAME OF ALL MEN OF THIS LAND OF ENGLAND, AND OF ALL THE PARLIAMENT PROCURATOR, *resigne to thee* Edward *the homage that was sometimes made unto thee, and from this time now forward I defie thee*, AND DEPRIUE THEE OF ALL ROYALL POWER, *I shall never be attendant to thee as King after this time.* After which King *Edward* the third being solemnly crowned, proclaimed his peace to all his people in these words:

'Edward *by the grace of God, King of* England, *Lord of* Ireland, *and Duke* of 'Aquitane, *to* N. N. *our Sheriffe of* S. *greeting: Because the Lord* Edward *our Father,* 'late *King of* England, *by* THE COMMON COUNSELL AND AS-'SENT OF THE PRELATES, EARLS, BARONS, AND O-'THER THE CHIEFE MEN AND WHOLE COMMON-'ALTIE OF THE KINGDOM, *did voluntarily remove himselfe from the government thereof; willing and granting that We, as his eldest Sonne and Heire, should take upon us the rule and regiment of the same: and we, with the counsell of the Prelates, Earls, and Barons aforesaid, yeelding therein to our Fathers good pleasure and will, have taken upon Us the Governance of the said Kingdome, and as the manner is, have received the Fealties and Homages of the said Prelates and Peeres. We therefore desirous that Our peace for the quiet and calme of Our people should be inviolably observed, do will and command you, that presently upon sight of these presents, you cause Our Peace to be proclaimed throughout your Bayli-wick, forbidding all and every one on Our behalfe, under paine and perill of disinheritance, and losse of life and limbs, not to presume to violate or infringe Our said Peace, but that every one pursue or follow his Actions and Complaints without any manner of outrage, according to the Laws and Customs of Our Kingdome: for We are ready and alwayes will be, to administer full right to all and singular complaints, as well of poore as rich, in Our Courts of Justice.*

* *Walsingham hist. Ang p 398. 399. 400. Ypodigma p 156. Halls Chron. 1. H. 4. f. 6. to 9. Fabian part 7. p. 346. to 355. Grafton p. 400. to 407. Speed p 757. 758. 759. 760. Trussel p. 43. to 50. Holinshed, Stow, Heywood, and others. Fox Acts and Mon. vol. 1. p. 671.*

The second *President is, that of King *Richard* the second, who being taken prisoner by *Henry* Duke of *Lancaster*, An. 1399. the Duke soone after, on the thirteenth of September called a Parliament in the Kings Name, *wherein was declared, how unprofitable King* Richard *had been to the Realme during his reigne, how he subverted the Lawes, polled the people, ministred Iustice to no man, but to such as pleased him.* And to the intent the Commons might be perswaded, that he was an unjust and unprofitable Prince, and a Tyrant over his Subjects, and THEREFORE WORTHY TO BE DEPOSED; there were set forth certaine Articles (to the number of 32. or 38. as some record) very hainous to the eares of many: some whereof I have * formerly recited, and the residue you may read in *Hall, Grafton, Haywood, Trussell*, and others. After which *Richard* was charged with the foresaid Articles, there was an instrument made declaring his Answers, and how he consented willingly to be deposed; the Tenor of which instrument was as followeth. 'This present Instrument made the Munday the 29. day of September, and 'feast of Saint *Michael*, in the yeere of our Lord God, 1389. and the 23. yeere of 'King *Richard* the second, witnesseth that where by the Authority of the Lords

* *Here p. 29. 30.*

'Spirituall

'Spirituall and Temporall of this present Parliament, and Commons of the same, 'the right honourable, and discreet persons hereunder named, were by the said 'Authority assigned to goe unto the *Tower of London*, there to heare and testifie 'such Questions and Answers as then and there should be by the said honourable 'and discreet persons heard. Know all men to whom these present Letters shall 'come, That we, Sir *Richard Scroop Archbishop of York*, *John Bishop of Hereford*, 'Henry Earle of Northumberland, Ralfe Earle of Westmerland, Thomas Lord of Barkly, William Abbot of Westminster, John Prior of Canterbury, William Thirning, and 'Hugh Burnell Knights, and John Markham Justice, Thomas Stowe, and John Burbage Doctors of the Law civill, Thomas Ferely and Denis Lopham Notaries publike, the day and yeer aboveſaid, betweene the houres of eight and nine of the clock 'before noone, were present in the chiefe Chamber of the Kings lodging within 'the said place of the Tower, where was rehearsed to the King by the mouth of the 'foresaid *E. of Northumb.* that before time at *Conway* in north Wales, the King being 'there at his pleasure and liberty, promised unto the *Archbishop of Canterbury*, then 'Thomas Arundell, and unto the said *Earle of Northumberland*, that *for insufficiency 'which he knew himselfe to be of, to occupie so great a charge as to governe this Realm of 'England, he would gladly leave off, and renounce the right and title, as well of that, as of 'his title to the Crowne of France*, and *his Majestie, unto Henry Duke of Hertford; 'and that to doe in such convenient wise as by the learned men of this Land it should most 'sufficiently be by them devised and ordained.* To the which rehearsall the King in our 'said presences answered benignly and said, *That such promise he made, and so to the 'same he was at that houre in full purpose to perform and fulfill. saving that he desired first 'to have personall speech with the said Duke, and with the Archbishop of Canterbury his 'Cozens: And furthermore, he desired to have a Bill drawn of the said Resignation*, that 'he *might be made perfect in the rehearsall thereof.* After which Copy by me the said '*Earle* delivered, we the said Lords and others departed. And upon the same after-'noone the King desired much of the comming of the *Duke of Lancaster*, at the last 'the said *Duke*, with the *Archbishop* of Canterbury, entred the foresaid Chamber, 'bringing with them the Lord *Ros*, the Lord *Burgeiney* & the Lord *Willoughbie*, with 'divers others: where after due obeysance done by them unto the King, he familiarly and with a glad countenance to us appearing talked with the said *Archbishop* 'and *Duke* a good season: And that Communication finished, the King with a glad 'countenance in presence of us, and the other above rehearsed, said openly, *That he 'was ready to renounce and resigne all his Kingly Majestie in manner and forme as he be-'fore seasons had promised: And although he had and might sufficiently have declared his 'renouncement by the reading of another meane person, yet he for the more surety of the 'matter, and for the said resignation should have his full force and strength, he therefore 'read the Scroll of resignation himselfe in manner and forme as followeth. In the Name of 'God, Amen. I* Richard *by the grace of God, King of England and of France, and 'Lord of Ireland, acquit and assoile all Archbishops, Bishops, and other Prelates secular 'or religious, of what dignity, degree, state, or condition that they be of; and also all 'Dukes, Marquesses, Earles, Barons, Lords, and all mine other liege men both spirituall 'and secular, of what manner of name or degree they be, from their Oath of fealty and ho-'mage, and all other Deeds and Privileges made unto me, and from all manner of Bonds 'of Allegeance and Regality or Lordship, in the which they were or be bound to me, or in any 'otherwise constrained, and them their heires and successours for evermore from the same 'Bonds and Oaths I release, deliver, acquit, and let them for ever be free, dissolved and*

'acquit, and to be harmlesse for so much as belongeth to my person, by any manner way or 'title of right that to me might follow of the foresaid things or any of them: And also I 'resigne all my Kingly Dignity, Majesty, and Crowne, with all the Lordships, Power, 'and Priviledges to the foresaid Kingly Dignity and Crown belonging, and all other Lord-'ships and Possessions to me in any manner of wise pertaining, what name or condition they 'be of, out take the Lands and Possessions for me and mine obite purchased and bought. And 'I renounce all right and colour of right, and all manner of title of possession and Lordship 'which I ever had or have in the same Lordships and possessions, or any of them, or to them, 'with any manner of rights belonging or appertaining unto any part of them: And also the 'rule and governance of the same Kingdome and Lordships, with all ministrations of the 'same, and all things, and every of them, that so the whole Empire and Iurisdictions of the 'same belongeth of right, or in any wise may belong: And also I renounce the name, wor-'ship, and regality, and kingly highnesse, clearly, freely, singularly, and wholly in the most 'best manner and forme that I may, and with deed and word I leave off and resigne them, 'and go from them for evermore, saving alway to my successors Kings of England, all the 'Rights, Priviledges and appurtenances to the said Kingdome and Lordships aboveseid 'belonging and appertaining: For well I wote and acknowledge, and deem my selfe to be 'and have bin unsufficient and unable, and also unprofitable, and for mine open deserts not 'unworthy to be put down: And I sweare upon the holy Evangelists here presently with 'my hands touched, that I shall never repugne to this resignation, dimission, or yeelding 'up, nor never impugne them in any manner by word or by deed, by my selfe, nor by none 'other; nor I shall not suffer it to be impugned in as much as in me is, privily nor apart: 'but I shall have, hold, and keep this renouncing, dimission, and leaving up for firme and 'stable for evermore in all and in every part thereof, so God me helpe and all Saints, and 'by this holy Evangelist by me bodily touched and kissed: And for more record of the 'same, here openly I subscribe and signe this present Resignation with mine owne hand.

'And forthwith in our presences, and other, subscribed the same, and after deliver-'ed it to the Archbishop of *Canterbury*, saying, *That if it were in his power, or at 'his assignment, he would that the Duke of Lancaster there present should be Successour 'and King after him.* And in token thereof, he took a Ring of gold from his finger, 'being his Signet, and put it upon the said *Dukes* finger, desiring and requiring the 'Archbishop of *Yorke*, to shew and make report unto the Lords of the Parliament of 'his voluntary Resignation, and also of his intent and good minde that he bare 'toward his Cousin the Duke of *Lancaster*, to have him his Successour and King after 'him. And this done, every man took their leave, and returned to their own.

'Upon the morrow following, being Tuesday, and the last day of September, 'all the Lords Spirituall and Temporall, with also the Commons of the said Par-'liament, assembled at Westminster, where, in the presence of them, the *Archbishop 'of Yorke*, according to the Kings desire, shewed unto them seriously the voluntary 'Renouncing of the King, with also the favour which he ought unto his Cousin 'the *Duke of Lancaster* for to have him his Successour: And over that shewed 'unto them the Scedule or Bill of Renouncement, signed with King *Richards* hand. 'After which things in order by him finished, the question was asked first of the 'Lords, *If they would admit and allow that Renouncement?* The which when it was of 'the Lords granted and confirmed, the like question was asked of the Commons, 'and of them in like manner affirmed. After which admission it was then decla-'red, *That notwithstanding the foresaid renouncing so by the Lords and Commons ad-'mitted, it were needfull unto the Realme, in avoiding of all suspicions and surmises of*

'*evill*

'*evill disposed persons, to have in writing and registred the manifold crimes and defaults*
'*before done by the said Richard late King of England, to the end that they might be first*
'*openly shewed to the people, and after to remain of Record among the Kings Records.*
'The which were drawn and compiled, as before is said, in 38. Articles, and there
'shewed readie to be read: but for other causes then more needfull to be prefer-
'red, the reading of the said Articles at that season were deferred and put off.
'Then forso much as the Lords of the Parliament had well considered this volunta-
'ry Renouncement of King *Richard*, and that it was behovefull and necessary for the
'weale of the Realme to proceed *unto the sentence of his deposall*, they there appoint-
'ed *by authority of the States of the said Parliament*, the Bishop of Saint *Asse*, the *Abbot*
'*of Glastenbury*, the *Earle of Gloucester*, the *Lord of Barkley*, *William Thyrning* Justice,
'and *Thomas Erpingham* and *Thomas Gray* Knights, that they should give and beare
'open sentence to the Kings deposition: whereupon the said Commissioners laye-
'ing their heads together, *by good deliberation, good counsell and advisement, and*
'*of one assent agreed among them*, that the Bishop of Saint *Asse* should publish the sen-
'tence for them, and in their names, as followeth. *In the Name of God, Amen. We*
'John *Bishop of Saint Asse or Assenence*, John *Abbot of Glastenbury*, Richard *Earle of*
'*Gloucester*, Thomas *Lord of Barkley*, William Thyrning *Justice*, Thomas Erping-
'ham *and* Thomas Gray *Knights, chosen and deputed speciall Commissaries by the three*
'*Estates of this present Parliament, representing the whole body of the Realme, for all such*
'*matters by the said Estates to us committed; We understanding, and considering the manifold*
'*crimes, hurts, and harmes done by* Richard King of England, *and misgovernance of the*
'*same by a long time, to the great decay of the said Land, and utter ruine of the same short-*
'*ly to have been, ne had the speciall grace of our Lord God thereunto put the sooner remedie,*
'*and also furthermore adverting the said King* Richard, *In using his own insufficiency, hath*
'*of his own meere voluntarie and free will renounced and given up the rule and government*
'*of this Land, with all Rights and Honours unto the same belonging, and utterly for his*
'*merits hath judged himselfe* NOT UNWORTHY TO BE DEPO-
'SED OF ALL KINGLY MAJESTY AND ESTATE ROY-
'ALL, *We, the Premisses well considering, by good and diligent deliberation, by the*
'POWER, NAME, AND AUTHORITIE TO US AS A-
'BOUE IS SAID COMMITTED, PRONOUNCE, DIS-
'CERNE, AND DECLARE *the same King* Richard *before this to have*
'*beene, and to be unprofitable, unable, insufficient, and unworthy to the rule and govern-*
'*ance of the foresaid Realms, Lordships, and all other Appurtenances to the same belonging:*
'and FOR THE SAME CAUSES WE DEPRIUE HIM OF ALL KING-
'LY DIGNITIE AND WORSHIP, AND OF ANY KING-
'LY WORSHIP IN HIMSELFE. AND WE DEPOSE HIM BY
'OUR SENTENCE DEFINITIUE, *forbiding expresly to all Archbishops, Bi-*
'*shops, and all other Prelates, Dukes, Marquesses, Earles, Barons, and Knights, and to all*
'*other men of the aforesaid Kingdom and Lordships, or of other places belonging to the same*
'*Realmes and Lordships, Subjects and Liegis whatsoever they be, that none of them from*
'*this time forward, to the foresaid Richard as King and Lord of the foresaid Realmes and*
'*Lordships, be neither obedient nor attendant.*

'After which sentence thus openly declared, the said Estates admitted forthwith
the same persons for their Procurators, to resigne and yeeld up to King *Richard*
all their homage and fealty which they have made and ought unto him before
times, and for to shew unto him, if need were, all things before done that concern-

'edi

'ed his deposing. The which resignation at that time was spared, and put in respite 'till the morrow next following: And anon, as this sentence was in this wise 'passed, and that by reason thereof the Realme stood void without Head or Go- 'vernour for the time, the said *Duke of Lancaster* rising from the place where he be- 'fore sate, and standing where all might behold him, he meekly making the signe 'of the Crosse upon his forehead and upon his breast, after silence by an Officer was 'commanded, said unto the people there being, these words following: *In the name 'of the Father, Sonne, and holy Ghost, I Henry of Lancaster claime the Realme of Eng- 'land and the Crowne, with all the appurtenances, as I that am descended by right line of 'the blood, comming from that good Lord King Henry the third, and through the right that 'God of his grace hath sent to me, with the helpe of my kinne and of my friends to reco- 'ver the same, which was in point to be undone for default of good Governance and due 'Justice.*

'After which words thus by him uttered, he returned & set him down in the place 'where he before had sitten. Then the Lords perceiving and hearing this claim thus 'made by this noble man, either of them fained of other what he thought; and 'after a distance or pause of time, the *Archbishop of Canterbury* having notice of 'the Lords minde, *stood up and asked the Commons if they would* ASSENT TO 'THE LORDS, WHICH *in their mindes thought the claime by the Duke more to* 'BE RIGHTFULL AND NECESSARY FOR THE WEALTH *of the 'Realm, and of them all.* Whereunto they cryed with one voice, YEA, YEA, YEA. After 'which answer, the said *Archbishop* going to the *Duke* and setting him upon his 'knee, had unto him a few words: the which ended, he rose, and taking the Duke 'by the right hand, led him unto the Kings seat, and with great reverence set him 'therein, after a certaine Kneeling and Orison made by the said Duke, ere he were 'therein set. And when the King was thus set in his Throne, to the great rejoyce- 'ing of the people, the *Archbishop of Canterbury* began there an Oration or Collati- 'on in manner as after followeth: * *Vir Dominabitur in populo, 1 Regum cap. 9.* 'These be the words of the high and most mighty King, speaking to *Samuel* his 'Prophet, teaching him how he should chuse and ordaine a Governour of his peo- 'ple of *Israel*, when the said people asked of him a King to rule them. And not 'without cause may these words be said here of our Lord the King: that is, For if 'they be inwardly conceived, they shall give unto us matter of consolation and 'comfort, when it is said that a Man shall have Lordship and rule of the people, and 'not a Childe; for God threatneth not us as he sometime threatned the people 'by *Esay* 3. *Esay. I shall, saith our Lord, give children to be their Rulers and Princes 'and weake or fearfull shall have dominion over them.* But of his great mercy hee hath 'visited us. I trust his peculiar people, and sent us a Man to have the rule over us, and 'put by Children, that before time ruled this land after childish conditions, as by 'the works of them it hath right lately appeared, to the great disturbance of all this 'Realme, and for want and lack of a man: For as saith the Apostle *Paul*, in 1 *Cor.* '14. *When I was a childe I savoured and spake as a childe; but at the time when I came 'to the state of a man, then I put by all my childish conditions.* The Apostle saith, he 'savoured and spake as a childe in whom is no stedfastnesse or constancy; for a 'childe will lightly promise, and lightly he will breake his promise, and doe al 'things that his appetite giveth him unto, and forgeteth lightly what he hath done 'By which reason it followeth, that needs great inconvenience must fall to that peo- 'ple that a Childe is ruler and Governour of; nor is is possible for that Kingdom

*Fabian part 7. p. 351. 352. 353.

to

'to ſtand in felicity where ſuch conditions reigne in the head and ruler of the ſame.
'But now wee ought all to rejoyce, that all ſuch defaults bee expelled, and that a
'Man and not a Childe ſhall have Lordſhip over us, to whom it belongeth to have
'a ſure reine upon his tongue, that he may be knowne from a Childe, or a Man
'uſing childiſh conditions; of whom I truſt I may ſay as the wiſe man ſaith in his
'Proverbs, *Bleſſed be the man that hath wiſdome, and that aboundeth in prudence:* For
'that man that is ruled by ſapience, muſt needs love and dread our Lord God; and
'whoſo loveth and dreadeth him, it muſt conſequently follow, that he muſt keep his
'Commandements. By force whereof he ſhall miniſter true Juſtice unto his Sub-
'jects, and do no wrong nor injury to any man, ſo that then ſhall follow the words
'of the wiſe man, which he rehearſed in Proverbs 10. *The bleſſing of our Lord God*
'*ſhall alight upon the head of the King, being a juſt and right wiſe man, for the tongue of*
'*him worketh not iniquity and injuſtice, but the tongue of the wicked and ſinners covereth*
'*iniquity*: And who that worketh or miniſtreth Juſtice in due order, he not only ſafe
'guardeth himſelfe, but alſo holdeth the people in a ſurety of reſtfulneſſe, of the
'which enſueth peace and plenty: and therefore it is ſaid of the wiſe King *Solo-*
'*mon, Eccleſ.* 10. *Bleſſed and happy is that land, of which the King or Ruler is noble*
'*and wiſe, and the Princes be bleſſed that live in his time.* As who would ſay, They
'may take example of him to rule and guide their Subjects; for by the diſcretion
'of a noble and wiſe man, being in authority, many evils are ſequeſtred and put
'apart, and all diſſemblers put unto ſilence; for the wiſe man conſidereth well the
'great inconveniences which daily now grow of it, where the childe or inſipient
'drinketh the ſweet and dilicious words unadviſedly, and perceiveth not intox-
'ication which they be mingled or mixt with, till he be invironed and wrapped
'in all danger, as lately the experience thereof hath been apparent to all our
'ſights and knowledges, and not without the danger of all this Realm, and all
'was for lacke of wiſdome in the Ruler, which deemed and taught as a childe, gi-
'ving ſentence of wilfulneſſe and not of reaſon; ſo that while a childe reigned,
'ſelfe will and luſt reigned, and reaſon with good conſcience was outlawed, with
'Juſtice, ſtedfaſtneſſe, and many other vertues. But of this perill and danger wee
'be delivered by the eſpeciall help and grace of God, becauſe he that now ruleth
'is not a childe, but perfect in reaſon, for he commeth not to execute his owne
'will, but his will that ſent him, that is to wit, Gods will, as a man unto whom
'God of his abundant grace hath given perfect reaſon and diſcretion to diſcerne
'and deem as a perfect man; wherefore of this man we ſhall not onely ſay, that he
'ſhall dwell in wiſdome, but as a perfect man, and not a childe, he ſhall thinke and
'deem, and have ſuch circumſpection with him, that hee ſhall diligently fore-
'looke and ſee that Gods will be done, and not his: and therefore now I truſt the
'words of the wiſe man, *Eccleſ.* 10. ſhall be verified in our King, ſaying, *A wiſe*
'*and diſcreet Judge ſhall now deeme his people, and the Dominion or Lordſhip of a diſcreet*
'*wiſe man ſhall ſtand ſtedfaſt*; whereupon ſhall then follow the ſecond verſe of the
'ſame Chapter, ſaying, *Like as the Head and Soveraigne is repleniſhed with all ſapi-*
'*ence and vertue in guiding of his people, adminiſtring to them Law with due and con-*
'*venient Juſtice, ſo ſhall the Subjects be garniſhed with awe and loving dread, and*
'*beare unto him, next God, all honour, truth, and allegiance.* So that then it may bee
'concluded with the reſidue of the foreſaid verſes, Such as the Ruler of the City
'is, ſuch then be the inhabitants of the ſame: So that conſequently it followeth,
'A good Maſter maketh a good Diſciple: And likewiſe, an evill King or Ruler

'th ll lose his people, and the Cities of his Kingdome shall be left desolate and 'uninhabited. Wherefore thus I make an end, in stead of a childe, wilfully doing 'his lust and pleasure without reason, now shall a man be Lord and Ruler, that is 'replenished with sapience and reason, and shall governe the people by skilfull 'doings, setting apart all willulnesse and pleasure of himselfe; so that the word 'that I began with, may be verified in him, *Ecce quia vir dominabitur in populo*, the 'which our Lord grant, and that he may prosperously reign unto the pleasure of 'God, and wealth of his Realm. Amen,

'The which Oration being thus finished, and the people answering with great 'gladnesse, Amen. The King standing upon his feet, said unto the Lords and Com-'mons present. *Sirs, I thanke you, my Lords Spirituall and Temporall, and all the 'States of this Land, and doe you to understand, that it is not my will that any man think 'that by the way of conqueste I would disinherit any man of his heritage, franchise, or 'other rights that he ought to have of right, nor for to put him out of that which he now 'enjoyeth, and hath had before time by custome of good Law of this Realm, except such 'private persons as have beene against the good purpose and the common profit of the 'Realme.* And this speech thus finished, all Sheriffs and other Officers were put in 'their Authorities, which season for the time that the Kings Sea was void, and af-'ter every man departed. And at afternoon were Proclamations made in accusto-'mary places of the City in the name of King *Henry* the fourth. And upon the 'morrow following, being wednesday, and the first of October, the Procurators 'abovenamed went unto the Tower of *London*, and there certified *Richard* of the ad-'mission of King *Henry*: And the foresaid Justice, *William Thyrning*, in the name 'of the other, and for all the States of the land, *gave up unto* Richard *late King, all 'homage and fealty unto him before time due*, in like manner and forme as before I 'have shewed to you in the deposition of King *Edward* the second. And thus 'was this Prince deprived of all Kingly dignity and honour *by reason of his evill 'counsell, and such unlawfull wayes and meanes as he by his insolency in his Realme suf-'fered to be used*, when he had reigned two and twenty yeers, three moneths, and 'eight dayes. So *Fabian* and others *verbatim*.

Those Parliaments then and Nationall Assemblies, which have thus disposed of the Crown and Kings themselves, and exercised such jurisdiction over them, must certainly be above them, and the highest Soveraigne power. True it is, our Protestant Peeres, Commons and Parliaments, never challenged nor exercised such jurisdiction, and I presume they will not doe it. However, it is neither honourable nor safe for Kings, and the most destructive policy their ill Counsellors can suggest unto them, so farre to oppresse their Subjects, or exasperate their Parliaments, as to provoke them to use the extremity of their Soveraigne power, and revive dead sleeping Presidents for their relieſe; *The consideration whereof when they were fresh, made succeeding Kings more just and moderate in their governments, and reclaimed many vitious oppressing Princes, as* *Archigallo *and others witnesse*. We know what *Solomon* saith. (y) *Surely oppression maketh a wise man mad*; and if Kings or their evill Instruments shall so far mad their Subjects and Parliaments (either by oppressions, rapines, misgovernment, destroying, making warre upon them, or putting them out of their protections) as to make them cry out as they did against King *Iohn*. (z) *Johannes factus est de Rege Tyrannus, imo de homine in bestialem prorumpens feritatem. Væ tibi Johanni Regum ultime; Anglorum Principum abominatio, Nobilitatis Anglicanæ confusio: Hen Anglia vastata, & amplius vastanda, &c.* Whereupon presently

* *See Mat. West. Jefory Monm. Polych. Fab. Grafton Holin Speed*, in his life.

(y) Eccles 7.7.

(z) *Matth. Par. p. 264, 265, 268 Graft. p. 111. 112. Bishop Bilson. part. 3. p. 480.*

presently ensined, *a Nolumus hunc regnare. Tandemque decretum est, ut aliquem potentem in Regem eligerent, per quem possint ad possessiones pristinas revocari, credentes quod nullius Johanne peior, vel durior possit dominari, & tale miserabile statuentes argumentum.*

——Fortuna miserrima tuta est,
Num timor eventus deterioris abest.

Cumque aliquandiu, quem eligerent hæsitassent, demum in hoc pariter consenserunt, ut Ludovicum filium Philippi Regis Francorum sibi præficerent, & ipsum in Regem Angliæ sublimarent; *Which they did, to King* Johns, *their own, and the whole Kingdomes great prejudice. We know what the ill advise of Rehoboams rough swill Counsellours produced,* 2 Chron. 10. *And the King answered the people roughly after the advice of the young men, saying: My father made your yoake heavy, but I will adde thereto; my father chastised you with whips, but I will chastise you with scorpions. And when all Israel saw, that the King would not hearken unto them, the people answered the King* (though some say he came to the Crown by succession) *saying, What portion have we in David? and we have none inheritance in the Sonne of Jesse; every man to your Tents O Israel: and now David, see to thine owne house. So all Israel went to their Tents, and elected Ieroboam for their King, and fell away from the house of David to this day,* being never after united to it, but continuing a distinct Kingdome from it. This grosse impoliticke maxime of ambitious Princes, now so much cryed up and prosecured: *Aut Cæsar, aut Nullus*, hath utterly unkinged, ruined hundreds of Kings and Emperours, with their families; and deprived them not onely of their *Crownes* but *lives*, as it did *Cæsar himselfe, with many of his successors, whose tragicall ends should deter all other Princes from their destructive, aspiring, tyrannous counsels, courses, maximes.

See 2 Chro. 10. & 11.

* See *Plutarchi, Julius Cæsar, Eutropius, Zonaras, Grimston,* and others in his life.

Wherefore the best policy Kings can use, to perpetuate their Thrones to them and their posterity, is to treate their subjects so, (*a*) *as may win their hearts and affections*, and not to straine their pretended prerogatives beyond the bounds of Law; this being a most certaine experimented rule which (*b*) *Aristotle* (the Prince of politicians) gives; *That there are two intestine causes most perilous and frequent of all others, by which a Kingdome is usually lost, and subverted. The first is, if the Nobles and people dissent from the King himselfe. The second, if Kings will reigne tyrannically, and usurpe a greater domination or prerogative, then the Lawes of their Kingdomes give them.* Then he addes, *Verily a kingdome is preserved by contrary remedies, specially, by a moderate kinde and temperate forme of Government. For by how much the more moderate the King shall be, and contented with smaller and fewer prerogatives, by so much the more constant and longer-lasting shall his kingdome necessarily be; For by this meanes it recedes farther from the domination of Tyrants, and it comes nearer to the equability of manners and humanity of life, and is lesse envyed by His subjects*, which he proves by the notable speech and example of King *Theopompus*. And indeed this is the principall policy which God himselfe hath prescribed a King, to *prolong his dayes in his Kingdome, he and his children after him; to keepe all the words of this Law, and the Statutes to doe them*, (that is, to governe himselfe and his subiects onely by Law, not power) *to doe justice and judgement, avoid oppression, & not to lift up his heart above his brethren*; as if they were his vassals and not men, not Christians of the same kinde and quality as himselfe is. Wherefore I shall close up this with old *Bractons* resolution. (*d*) *Potest. autem Regis, juris est, & non injuriæ. Exercere igitur debet Rex potestatem Juris sicut Dei vicarius & Minister in terra: quia illa potestas* *SOLIUS *Dei est: potestas autem injuriæ, Diaboli & non dei: cujus horum operum fecerit Rex, ejus Minister*

(a) *Seneca de Clemantia, l. 1.*
(b) *Polit. l. 5. c. 10, 11 p. 367, 368.* See *Polybius, Hist. l. 6.*
(c) Deut. 17 19, 20, See Prov. 16. 12. c. 20 28. c. 29. 4. 14. c. 25. 5.
(d) *Lib. 2 c. 9. f. 107 & tract. l. 1. c. 17.*
* *Id est*, Sola.

ster erit, cujus opera fecerit. Igitur dum facit justitiam, vicarius est Regis æterni, minister autem Diaboli dum declinat ad injuriam. * Dicitur enim Rex à bene regendo, non à regnando: quia Rex est dum bene regit. Tyrannus dum populum sibi creditum violenta opprimit dominatione. Temperet igitur potentiam suam per legem, quæ frænum est potentiæ, quod secundum leges vivat quia hoc sanxit Lex humana; quod leges suum ligent latorem; & alibi in eadem, * Digna vox Majestate regnantis est, legibus alligatum se Principem profiteri. Item, nihil tam proprium est imperii quam legibus vivere: Et majus imperio est legibus submittere principatum; & merito debet retribuere legi, quia Lex tribuit ei; facit enim Lex quod ipse sit Rex. Item, cum non semper oporteat Regem esse armatum armis sed legibus, addiscat Rex sapientiam & conservet justitiam. (All which is notably seconded by Judge *Forteſcue*, *De Laudibus Legum Angliæ*, c. 9 to 15. worthy any Princes serious perusall:) And thus doing, neither he nor his Posterity need feare this Supream prerogative power of Parliaments, which hath laine dead and buryed for many ages; *Et pereat positum rubigine telum.*

* See *Leges Edwardi Confessoris* cap. 17. in *Lambards Archaion.* f. 130. accordingly.
* *Iustinian. Codic. l.* 1. *Tit.* 17. *cap.* 4.

11. *All Papists* (e) *attribute farre more divine authority and Soveraigne Jurisdiction over Emperours, Kings, Princes, Kingdomes, Subjects, to the Pope their Lord and God, whom they make the Supreame Monarch of the World and all kingdomes in it, and give him greater authority to summon, ratify, and dissolve generall Councels, then ever any Christian King or Emperour, challenged or usurped:* yet those who maintaine these Paradoxes of the Popes Supremacy, confesse (f) *that a Generall Councell is above the Pope; and may upon just cause* (though they all plead his Soveraignety to be *jure divino*, and his person most sacred, terming him *his Holinesse*, in the abstract) *not onely convent and censure the Pope for his misdemeanours, but likewise actually depose him, and set up another in his stead*, as the Councels of *Pisa*, *Constans*, *Basil*, (which deposed foure Popes, namely, *Gregory* the 12. *Benedict* the 13. *John* the 23. and *Eugenius* the fourth) the Councell of *Chalcedon* against Pope *Leo*, the Councell of *Sinuessa* against Pope *Marcellinus*; the sixth, seventh, and eighth generall Councels against *Honorius*, the Councels of (g) *Wormes* and *Brixia* against *Hildebrand*, the Councell of *Pisa*, summoned *An.* 1511. of purpose to depose Pope *Iulius* for his perjury, experimentally manifest, and (h) sundry popish Writers acknowledge. Now the Councell of *Basil* (as I shewed * before) defined, *That the whole Kingdome or Parliament hath as great power over their Kings, as a Councell hath over the Pope*: Therefore by *Papists* verdicts they are above the King in point of Soveraigne power, as a Councell is above the Pope: which *John Mariana, de Rege & Regis Instit. l.* 1. *c.* 3. to 10. professedly proves at large.

(e) See *p.* 2. 3. & the Authors there quoted. Bishop *Iewels* View of a seditious Bull, and of the Popes Supremacy. *Cassaneus Cata. gloriæ mundi, part.* 4.
(f) See *John Wrights Way sect.* 36. *n.* 30. *p.* 34, 35. *p.* 122. 104, 105. *Surius Tom.* 3. & 4.
(g) *Fox* Act & Monuments, *vol.* 1. *p.* 231. 235. 879. to 890. 962.
(h) See *John Wrights Way sect.* 36. *n.* 30. *p.* 101 & *n.* 34, 35. *p.* 104, 105. * See *p.* 6.

12. That Court which may lawfully censure, question, depose, banish, execute the Kings greatest Favorites, Officers, Judges, yea Lord Protectors themselves, the highest Peeres of the realme, (notwithstanding such are said to be (i) *Gods*, (k) *Ordained of God, Gods Ministers, To* (l) *decree iudgement by God* to be *the higher powers*, &c. in Scripture, as well as Kings;) and that not onely with, but against the Kings good will; must questionlesse be the highest power and jurisdiction in the realme, else the Kings and their Authorities might protect them against its Justice. But the Parliament may lawfully censure, question, depose, banish, execute all or any of these, not onely without, but against the Kings consent: witnesse the proceedings in Parliament against (m) *William Longchamp*, Bishop of *Ely*, Chiefe Justitiar, Lord Chancellor, and Vice-roy of *England*, in *Richard* the first his reigne, during his absence in the Holy Land,) from which offices he was by the Peeres and Commons deposed for his misdemeanour, and oppressions. (n) *Pierce Gaveston* and the two

(i) Psal. 82. 1, 2. Ex. 22. 28. John 10. 34. (k) Rom. 13. 1, 2, 3, 4. (l) Pro. 8. 15. (m) *Hoveden p.* 702, 703. 705, 706. with *Speed*, *Holinshed*, *Grafton*, *Stow*, *Matthew Paris*, *Polychronicon*, *Fabian*. (n) *Walsingh. Speed*, *Holinish. Fabian*, *in Edw.* 2. *Froissards Chron part.* 1. *c.* 12, 13.

Hugh

Hugh Spencers, in *Edward* the seconds reigne, oft banished by Parliament, and violently put to death, though the Kings highest Officers, and darling Minions. (o) *Michael De la pole*, with other great Officers, and Favourites to King *Richard* the second, condemned, deprived of their Offices, banished and executed by the Peeres in Parliament, together with *Tresilian*, *Belknap*, and their fellow Judges, who misadvised him in point of Law: (p) *Humphrey* Duke of *Glocester*, protector to king *Henry* the sixt, arrested of high Treason in a Parliament at *Bury*, and there murdered; (q) Cardinall *Wolsey*, that powerfull favourite to king *Henry* the eight, accused and put from his Chancellorship and other Offices by the Parliament; (r) The Duke of *Sommerset*, Lord protector to king *Edward* the sixt, accused and attainted of high Treason in Parliament, for which he lost his head; the great Earle of *Strafford* Lord Deputy of *Ireland*, who lost his head this Parliament for Treason, full sore against his Majesties and the Queenes wills, with infinite others mentioned in our stories and records: Nay *Queenes* themselves have undergone the censures of Parliament, (of which we have sundry precedents in (*f*) king *Henry* the eight his reigne) not onely to divorce, but losse of their very heads; and shall any Delinquent then thinke to be protected by any power against the Parliaments justice now?

(o) *Walsingham Holinsh. Speed, Grafton, Stow, in 11 R.2. c.1. 6, 7. Froissards Chro. part. 1. c. 97*

(p) *Hall, Stow, Speed, Holynsh. Grafton, Fox. in H.6.*

(q) *Hall, Holin. Grafton, Stow, in H.8.*

(r) *Fox, Speed, Holinshed, Stow, Grafton in Ed. 6*

(*f*) *See Fox, Hall, Speed, Holinshed, Grafton, in his life, 28 H.8. c 7. & 35. H.8. c. 1.*

13. Not to mention the Parlaments power and jurisdiction even in reforming the excesses and abuses of the kings owne meniall servants, and of the extraordinary traine and expences of the Kings owne Court, and gifts; for which I finde these following Presidents, with others; collected by Mr. *William Noy* himselfe, (as is reported) his Majesties late Atturney Generall, *An.* 1634. in a Manuscript, entituled, *A Declaration*, &c. passing under his name.

* *Rotulo Parl. 3 Ed. 3. n. 10, 11, 12, 13, 14, 15, 16, 17.*

* *Anno.* 3 *Ed.* 3. the houshould was reformed by the petition of the people.

An. 1 *R.* 2. the houshold was brought to such moderation of expense as may be answerable to the revenue of the Crown, in and by Parliament.

Rotulo Parliamenti, 1 *R.* 2.

Anno. 5 *&* 6 *R.* 2. the Commons petition was, that the excessive number of the Kings meniall servants may be remedied, or else the realme would be utterly undone, and that his houshould might not exceed the ordinary revenue of the realme.

Rotulo Parliamenti, An. 5 & 6 *R.* 2.

Anno 4 *H* 4. the people crave a reformation of the Kings house; & *Anno* 7. that he would dismisse some number of the retinue, since it was now more chargeable and lesse honourable then his progenitors; and that the ancient Ordinances of the houshold, in ease of the people might be kept, and the Officers of the houshold sworne to put the Ordinances and Statutes in due execution; and to consider the griefes of his Subjects by unjust purveyance, contrary to the Statute, that hereafter he might live OF HIS OWNE GOODS IN EASE OF HIS PEOPLE. Which the King willingly doth, as appeareth by an Ordinance in Counsell whereby the charge of the houshold is limited to 16000. markes.

Rotulo Parliam. 4 H. 4. & 11 H. 4.

Ex Rotulo & act Conc. Anno 7 *H.* 4.

Anno 12 & 18 *H* 6. the charge of the Kings house is reduced to a certainty, and lessened by petition and order in Parliament.

Rotulo Parliamenti, An°. 12 *H.* 6. & 18 *H.* 6.

Anno 12 *E* 4. the King in Parliament promiseth to abate his houshold, and hereafter to live upon his owne, so setling a new forme of his Court, which is extant in many hands, and intituled, Ordinations for the Kings house.

Ex Rot. Parl. An°. 12 *E.* 4. *Ex libro Ordinationum*, An°. 12 *E* 4.

Anno 3 *E.* 2. an Ordinance was made for the Kings houshold in ease of the Kings people oppressed with purveyance, by reason of the greatnesse thereof; and the motive of that Ordinance was, to the honour of God, and profit of holy Church, and to the honour and profit of the King, and the benefit of his people, according

An°. 3 *E* 2. *Ex Lib. Antiq. Regis.*

TO

TO RIGHT AND REASON, AND THE OATH WHICH OUR LORD THE KING MADE AT THE BEGINNING of His Raigne.

Ex Rot. Parl. 7 & 12 H.4 & 10. R.2. Ex Rot. Parl. A°. 7 & 12. H. 4.

Thus *R.2.* did discard the *Bohemians*, *Anno* 10. by an act of Parliament, at the peoples petition surcharged by them.

Thus *H.4.* did with the *Gascoignes* and *Welsh* in like sort, overburdening and impoverishing the King and Realme with perpetuall suits, so that in Court as the Record saith, there were no men almost of substance, or valiant persons, as there ought to be, but rascals for the greater part.

Rotulo Parliam. A°. 11 R.2. A°. 2.4 5.H.4: n.9.

Hence was it, that the wisedome of former times foreseeing the mischiefe the open hand of the Soveraigne might bring the state into, made a Law 11 *R* 2. that whatsoever commeth to the King by judgement, escheat, forfeiture, wardship, or in any other waies, shall not be given away, and that the procurer of any such guift shall be punished.

7 H.3. Rot. Parliamenti.

This Law the Parliament continued 7 *H.* 4. untill the King was out of debt, making frustrate the grants of these, and ordaining a penalty of double value to every mover or procurer of such grants.

Rotulo Parliamenti, A°. 11 H. 4. n.293.

The like in *Anno* 11 *H.* 4. and that no Petition for any thing should be delivered to the King but in presence of the Councell, who might examine it, lest that the Kings wants should light upon the Commons.

20 & 25 H.6. marked 24.

And to keep the hand of *H.6.* from wastfull giving, the Councell enduced him to convey to the *Archbishop of Canterbury* and others, all profits of wards, marriages, reliefes, escheats and forfeitures, to defray the charge of his house.

Ex Rot. Parl. 28 H.6.

It is one of the greatest accusations in Parliament against the Duke of *Sommerset* for suffering the King to give away the possessions and profits of the Crown in manner of a spoile, for so are the words of the Record.

Ex Rotulo Parliamenti, 1 H.4.

And it was the first and chiefest Article to depose *R.2* for wasting, and bestowing the Lands and the revenue of the Crowne upon unworthy persons, and thereby overcharging the Commons with exactions.

(*t*) *Matth. Paris p.502, 562, 933 934, 935. Speed p. 750. Grafton, p 188, 189, 240, 241, 221, 222, 2-3. The severall Acts for Subsidies and Rastal Warre, Truce, Armes, Money, Mint, Musters, Taxes, Tonnage, & Poundage. The Parliaments two Remonstrances concerning the Militia, Cooke inst. it. on Artic. Super Chartas. 575. to*

Nor yet to mention the Parliaments Soveraigne Power and Jurisdiction (*t*) in making or proclaiming Warre or Peace, in which they have oft times not onely advised, but overswayed the King; in creating the highest Officers, in ordering the Militia of the Kingdome by Sea and Land by setled Lawes (of which more anon;) or in ordering the Coyne and Money of the Land, together with the Mint, or designing how the Subsidies and Aydes granted by them to the King, shall be disposed of to the Kingdomes use, of which there are sundry presidents. All which, together with the Acts concerning his *Purveyance*, *Pardons*, *Charters*, *Grants*, and all *Revenues Royall*, are strong (*u*) evidences of its *Soveraigne Authority*. Nor yet to remember that infallible Argument, to prove Kingdomes greater, and more valuable then Kings; that Kings as publique servants to their Realmes, ought to hazzard their lives for their Kingdomes safety and preservation (as many have done in warres against enemies) but never ought the whole Kingdome to be lost or hazzarded to preserve the Kings *Prerogatives*, that of *Iohn* 11.48, 49, 50. and *chap.* 1814. being an undoubted rule in Divinity and Policy. * *That it is expedient that any one man*, (though a King, yea Christ the King of Kings) *should die for the people*, *that the whole Nation perish not*; rather then the whole Nation die for him. *Priorque mihi & potior ejus officii ratio est, quod humano generi, quam quod uni hominum debe*, as *Seneca de Benefic. l.7*

579. *See *Mat. Par. p.* 268. *Leginus quod multi alii Reges, imo & Reguli, usque ad mortem dimicarunt, &c.*

Gentilis

Gentilis de Jure Belli. l. 1. *c.* 16. resolve, from the light of nature and common reason. I shall onely adde this important consideration to illustrate this obscured truth. It can* hardly *seeme probable, much lesse credible,* that any free *people* whatsoever when they voluntarily at first incorporated themselves into a Kingdome, and set up an elective or hereditary King over them, *would so absolutely resigne up their Soveraigne popular originall authority, power, and liberty to their Kings, their heires, and successors for ever, as to give them an absolute, irrevocable, uncontroulible Supremacy over them, superiour to, irrestrainable, irresistable, or unalterable by their owne primitive inherent Nationall Soveraignety, out of which their regall power was derived.* For this had been to make the *Creator* inferiour to the *Creature*, the *Parent* subordinate to the *Child*, the *Derivative* greater then the *Primitive*, the *Servant* (for Princes are but their Kingdomes publique Ministers) more potent then the *Master*; of *Freemen*, to have made themselves and their *Posterity* absolute *slaves* and *vassals* for ever; and in stead of a *Principality*, intended only for their *greater safety and immunity*; to have erected a *Tyranny*, to their *perpetuall irremediable Oppression and slavery*: A most brutish, sottish, inconsiderate rash action, not once to be imagined of any people; quite contrary to the practice of the *Lacedemonians, Romans, Germans, Aragonians*, and most other Nations, who still reserved the Soveraigne power to themselves, and never transferred it to their kings or Emperours, who were ever subject to their jurisdictions, and censures too, as I shall manifest at large in the *Appendix*: no absolute Monarchy being ever set up in the world but by direct Tyranny and Conquest, as *Cassaneus* in his *Catalogus Gloriæ Mundi pars* 5. *Consid.* 1. manifests at large, not by the peoples free election and consents. And had our Ancestors or any other Nations, when they first erected Kings, and instituted Kingly government, been demanded these few questions: Whether they meant thereby to transferre all their Nationall authority, power, and priviledges so farre over unto their Kings, their heires, and successors for ever, as not still to reserve the supremest power and jurisdiction to themselves, to direct, limit, restrain their Princes supremacy & the exorbitant abuses of it, when they should see just cause? or so as not to be able ever after to alter or diminish this form of government upon any occasion whatsoever? Or if their King should turne professed tyrants, endeavouring to deprive them (against all right and justice) of their Lives, Goods, Liberties, Religion, Lawes, or make open warres upon them to destroy them, or bring in forraigne enemies upon them, to conquer or subject them to a forraigne power without their free consents, that yet they should patiently submit themselves to these their unnaturall, tyrannicall, destructive proceedings without any the least resistance of them by necessary defensive Armes, or calling thē to account for these grosse irregularities? I make no question that they would have joyntly answered (as I doubt not but our Parliaments, Kingdomes, and all other Nations, were they at this day to institute their preerected Principalities and Kings, would answer to) that they had never any imagination to erect such an absolute, eternall, unlimited, uncontrollable, irresistable Monarchy, and plaine tyranny over them; and that they ever intended to reserve the absolute originall Soveraigne Jurisdiction in themselves, as their native hereditary priviledge, which they never meant to divest themselves of: that so by means thereof, if their Princes should degenerate into Tyrants, they might have a just authority, power, and remedy residing in them, whereby to preserve themselves, the Nation, Kingdome, from utter desolation, ruine, and vassalage. An impregnable evidence, that the whole Kingdom and Parliament representing it, are the most Soveraign power; and above the King himselfe, because having the supream Jurisdiction

* See *Johannis Mariana de Rege & Regis institut. l.* 1. *c.* 8. *Marius Salamonius de Principatu. l.* 2, 3, 6. *Ioannes Ossorius. c.* 9. *to* 15. *Aristot. Polit. l.* 3. *c.* 9, 10, 11. *l.* 5. *c.* 10, 11. *Hugo Grotius, de Jure Belli, l.* 1. *c.* 4. *sect.* 7. *p.* 85, 86.

ction in them at first, they never totally transferred it to our Kings, but reserved it in themselves, which is likewise further confirmed by that notable passage of * *Philocheus Archilacus* in his *Somnium Viridarii, c.* 171. *Royall power is instituted three manner of wayes: First, by the will and pleasure of the people, because every people wanting a King of their own (not being subject to the Emperour, or some other King)* MAY BY THE LAW OF NATIONS MAKE THEMSELUES A KING, 94. *Dist. c. Legitima. If a Royall Principality be thus instituted, as it is in the proper pleasure and power of the people to ordaine, that the King shall be either Successive or Elective; so it is in their pleasure to ordaine, That Kings succeeding hereditarily shall enjoy their power due nnto them either immediately before any Coronation, or any other solemnity, or that they shall receive this power onely by their Coronation or any other solemnity about him.* The reason whereof is, *Because as every one in the delivery of the gift of his owne goods, may impose what covenant or condition he pleaseth, and every man is moderator and disposer of his owne estate; so in the voluntary institution of a King and Royall Power* IT IS LAWFULL FOR THE PEOPLE, SUBMITTING THEMSELUES, TO PRESCRIBE THE KING AND HIS SUCCESSORS WHAT LAW THEY PLEASE: so as it be not unreasonable and unjust, *and directly against the rights of a Superiour:* Therefore lawfull to reserve the Soveraigne Power in and to themselves, and not to transfer it wholly to their Kings.

* *In Melch. Goldasti Monarchia, Tom.* 1. *p.* 128.

14 There is one cleare Demonstration yet remaining, to prove the supreme power of Parliaments above Kings themselves, which is this: That the Parliament is the highest Court and power, to *which all* (*x*) *Appeales are finally to be made from all other Courts and Iudges whatsoever, yea from the Kings own personall resolution, in, or out of any other his Courts: and such a transcendent Tribunall from whence there is no appeale to any other Court or person, no not to the King himselfe, but onely to another Parliament.* If any erroneous Judgement be given in the Kings Bench, Exchequer-Chamber, Chancery, Court of Wards, or any other Court within the Realm, or in the Parliament in *Ireland*, it is finally to be reversed, or determined in Parliament by a *Writ of* (*y*) *Error, or upon a Petition or Bill:* If any sentence be unjustly given in any Ecclesiasticall Courts, or before the Delegates, the finall Appeale for redresse must be to the Parliament. Illegall sentences in the (now exploded extravagant) Courts of *Star-Chamber*, or *High Commission*; Injuries done by the King and his privy Councell at the *Councell Table*, are examinable and remediable in this high Court. Nay, if the King himselfe should sit in person in the Kings Bench, or any other Court (as sometimes our Kings have done) and there give any Judgement, it is not so obligatory or finall, but that the party against whom Judgement is pronounced, may appeale to the Parliament for relieſe, (as *Seneca epist.* 100. out of *Tully de Repub. & Feneſtella, Hugo Grotius de jure Belli, l.* 1. *c.* 4. *s.* 20. *p.* 65. *record*; that among the Romanes in certain causes they might appeale from the King to the people.) But if the Parliament give any Judgement, *There* * *can be no appeale to any higher Tribunall*, Court, or person, no not to the King, but onely to the next or some other Parliament, as is evident by experience, by all (*z*) *Attainders of Treason, by or in Parliament, by all inconvenient and unjust Acts passed in Parliament, which concerne either King or Subject; which cannot be reversed nor repealed, though erroneous, nor the right heire restored in blood by any Charter from*

(*x*) See Sir *Thomas Smiths Common wealth, l.* 2. *c.* 1. 2. *Holinsheds* description of *England, c.* 8. *p.* 173. and Chronicles of *Ireland, p.* 127. to 130. *Cromptons Jurisdiction.*

(*y*) 1 *H.* 7. 1 *Br. Parliament.* 92. 98. Error 65, 88. 137. See *Ass.* Error 66, 66, 67, 68, 70

* See 22. *E.* 3. 3. Error 8. 8 *Hen.* 4. 12, 13.

(*z*) 21 *R.* 2. *cap.* 1. to 15. 1 *Hen.* 4. *cap.* 2, 3, 4. 8 *Hen.* 4. 12, 13. See *Magna C.* 1. 1 *Eliz. cap.* 1, 3, 21. *Jac. c.* 28. And all Acts for restitution in bloed of persons attainted, and Acts of repealing Statutes, *Bracton. lib.* 1. *cap.* 2.

the

the King, but onely by an act of repeale or restitution in another Parliament. Now this is an infallible Maxime, both in the Common, Civill, and Canon Law, that *The Court or person to whom the last appeale is to be made, is the Supremest power*; as the (a) *Kings Bench* is above the *Common Pleas*, the *Exchequer Chamber* above the Kings Bench, and the *Parliament* above them all, because a Writ of Error to reverse erroneous judgements given in the *Common Pleas*, lyeth in the *Kings Bench*: *Errors in the Kings Bench may be reversed in the Exchequer Chamber*; *and errors in all or either of them, may be redressed finally in Parliament*, from whence there is no further appeale. Hence the Canonists conclude, a (b) *Generall Councell* above the *Pope*, the *Pope* above the *Archbishop*, the *Archbishop* above the *Ordinary*, because men may *Appeale from the Ordinary* to the *Archbishop*, from him to the *Pope* (but now with us to the *Kings Delegates*.) If there be any difference betweene (c) *King* or *Subject*, touching any inheritances, *Priviledges or Prerogatives belonging to the Crowne it selfe*, or any points of misgovernment; yea, which is more, if there be any suite, quarrell, or difference betweene our Kings in Act, and any other their *Competitors*, (d) *for the Crowne it selfe*, which of them hath best title to it, who of them shall enjoy it, and how, or in what manner it shall be setled, the Lords and Commons in Parliament are and ought to be the sole and finall Judges of it.

(a) See *Ashes* Tables, Error 65, 66, 67, 68, 69, &c.

(b) *Bodin, l.* 1. c. 10. *Summa Angelica, & Rosella In Appellatio. Lindwod, lib.* 2. *de Appellationibus, Fox* Acts and Monuments, Vol. 1 *p.* 448, 449. 452. 506. 24. *H.* 8. *c.* 12. All Papists and Protestants, in their Controversies of the Popes Supremacy, & of generall Councels

Not to give you any instances of this kinde betweene King and Subjects, which I have formerly touched; nor to relate how our King *John* (e) *condemned to death by a Parliament in France, by French Peers, for slaying his Nephew Arthur treacherously with his own hands, and likewise to lose the crown of England*: or how (f) *Henry* the third, K. *Edward* the first and other our Kings have *Appealed to the Parliaments of France and England, upon differences betweene the Peeres and Kings of France and them, concerning their Lands and Honours in France*. Or how King *Edward* the third, and *Philip of France* submitted both their *Titles* to the Kingdome of *France*, to the determination in a *French Parliament*, where *they were both personally present, which adjudged the Crowne to Philip*. Nor yet to mention how the Parliaments and generall assembly of the estates of *France* have **frequently disposed of the Crowne of that Kingdome, determined the controversies of the right and titles pretended to it; and elected Protectors or Regents of the Realme during their Kings minorities, or distractions*; of which I shall cite divers precedents in the *Appendix*, to which I shall referre you. Nor yet to trouble you with *Spanish Precedents* of this nature, where the severall claimes and titles of the pretenders to the Crownes have beene oft referred to, debated in, and finally resolved by their Parliaments and generall assemblies of the States, *the proper Judges of such controversies*, as * *Joannes Mariana*, * *Suardus Nonius*, and other *Spanish* writers determined; as *Philip* the second the 18. King of *Portugall* his title to that Crowne and his competitors, together with the rights and claimes of *Alfonso* the 1. 3. 5. *John* the 1. *Emanuel* and other Kings of *Portugall*, and their Corivals were solemnly debated and determined in the assembly of the States of that Realme, and of *divers Kings and Queenes of Arragon, Castile, Navarre*: A pregnant argument, that their assemblies of States are the soveraigne Tribunall, since they have power and right to determine and settle the descent, right

(c) See *Grafton p.* 512, 513. 161. *Matthew Paris, p.* 954. *Fox* old Edition, *p.* 508.

(d) See *Hoveden p.* 724, 725

(e) *Matthew Paris, p.* 273. 274, 275.

(f) *Matthew Paris, p.* 892. 925, 930, 948. 954, 955. *Walsingham, p.* 188, 189 *Speed, p.* 687, 688. 785. 788. *Andrew Favine* Theater of honour, *l.* 2. *c.* 12.

(g) *Walsingham Hist. p.* 514 *Speed, p.* 647. 648

* See *Andrew Favine* his Theater of Honour, *l.* 2. *c.* 12. *Fabian*, the generall History of *France*, with others in the Appendix. * *Censura Duardi Nonii, In Josephi Teixera libellum, c.* 76. to 83. & *de Vera Rerum Portugal Genealogia, c.* 17. 18. + *Munsteri Cosmogr. l.* 2. *c.* 20, 21. *Joan Mariana de Rege & Regis Instit. l.* 1. *c.* 3. 4. 5. *Michael Ritius de Regibus Hispaniæ* and others.

and succeſſion of the Crowne betweene thoſe who pretend titles thereunto: I ſhall confine my ſelfe to domeſticke precedents. Not to repeate the (*i*) forementioned precedents, how the Lords and commons when the Title to the Crowne hath been in diſpute have transferred it from the rightfull Heires to others; I ſhall give you ſome other pregnant evidences, where the Parliament hath finally determined the Title to the Crowne, when it hath beene in competition, and ſetled it in a legall manner to avoid debates (by way of Appeale to them by competitors, or reference from the Kings themſelves) as the onely proper Judges of ſuch a ſuperlative controverſie. Not to mention any ſtories of our Britiſh Kings to this purpoſe, where the * *Kingdome, Lords and Commons then, diſpoſed of the Crowne in caſes of minority, want of Heires, miſgovernment, and controverſies about the Title to the Crowne.*

* *Canutus* after the death of King *Edmund*, *Anno* 1017. clayming the whole Realme againſt *Edmund*'s Brethren and Sonnes, referred his Title upon the agreement made betweene *Edmund* and him for this purpoſe, to the Parliament, who reſolved for *Canutus* Title, and thereupon tooke an Oath of fealty to him, *Offering to defend his right with their ſwords againſt all others claimes.* After his deceaſe, the * *Title to the Crowne being controverted* betweene *Hardicanute* the right Heire, and *Harold* his elder, but baſe Brother; it was referred to a Parliament at *Oxford*, who gave their voyces to *Harold*, (there preſent) and preſently proclaymed and conſecrated him King; *Anno* 1036. After whoſe death, the States of *England* ſent and adjudged the Crowne to *Hardicanute*, then in *Denmarke*. He dying, * *Edward the Confeſſor*, by a generall conſent of the Nobles, Clergy, and People (who preſently upon *Harolds* death, enacted by Parliament,) *That none of the Daniſh blood ſhould any more Reigne over them)* was elected King, and declared right Heire to the Crowne, *Anno* 1126. (*k*) King *Henry* the firſt having no iſſue male, but onely one Daughter *Maude*, to ſucceed him, ſummoned a Parliament in the preſence of himſelfe and *David* King of *Scotland*, wherein the Crowne was ſetled upon *Maude* after his deceaſe, being of the ancient Royall Engliſh blood; whereupon *Stephen*, his Siſters Sonne, and all the Nobles preſently ſwore fealty to her, *As much as in them lay, after King Henries death (if hee died without iſſue male) to eſtabliſh her Queene of the Monarchy of great Britaine.* But *Stephen* after his deceaſe, uſurped the Crowne againſt his Oath, *By the unanimous conſent and election of the Lords and Commons*: And after ſeventeene yeares civill wars, to the devaſtation of the Realme (*l*) *King Stephen and Henry the Sonne of Maude* came to a Treaty at *Wallingford*, where by the adviſe of the Lords, they made this accord; *That Stephen if he would, ſhould peaceably hold the kingdome during his life, and that Henry ſhould be his adopted Sonne and Succeſſor, enjoy the Crowne as right Heire to it after his death; and that the King and all the Biſhops and Nobles ſhould ſweare, that Henry after the Kings death, if he ſurvived him, ſhould poſſeſſe the Kingdome without any contradiction*: Which done the civill warres ceaſed, and a bleſſed peace enſued: and then comming to *Oxford*, in a Parliament all the Nobles did fealty to *Henry*, who was made chiefe Juſticiar of *England*, and determined all the affaires of the kingdome. In the 8. and 25. of E. 3. there was a (*m*) doubt moved in Parliament, *whether the children of the King, or others borne beyond the Seas within his Allegiance, ſhould inherit lands in* England? The King, *to cleare all doubts and ambiguities in this caſe, and to have the Law herein reduced to certainty; charged the Prelates, Earles, Barons, and other wiſe men of his Councell aſſembled in Parliament in the* 25. *yeare of his Raigne,*

to

(*i*) *Pag.* 9.
* *See Matthew Weſtm. Fabian. Grafton, Holin.*
+ *Polychron. l.* 6 *c.* 18. *Speed, p.* 399. *See Grafton and Holinſhed accordingly.*
* *Matthew Weſtminſter & Malmeſbury, Anno* 1036. *Holinſhed, l.* 17. *c.* 13 *p.* 398. *Speed, p.* 404. *Huntingdon, Walſingham. Anno* 1036. 1040.
+ *Huntingdon, l.* 6. *Polychron. l.* 6. *c.* 18 *Speed. p.* 410. *Matthew Weſtmin. Anno.* 1042 *p.* 415.
(*k*) *Hoveden, Huntingdon, Matthew Weſtm. Matthew Paris, Walſingham, Polychronicon, Fabian, An.* 1126. *Speed p.* 477. *See Holinſhed, Grafton, Stow, Anno* 1126.
(*l*) *Walſingham, Tpod, An.* 1113 *Matthew Weſtm. An.* 1153. *p* 42. *Matthew Paris, p.* 82, 83 *Speed p* 497. *Hoveden, p* 490. *Huntingdon, Hiſt. l.* 8. *p.* 598. *Fox Vol.* 1. *p.* 261.
(*m*) 25. *E.* Par. 2. *in the Statuts at large*

to deliberate of this point; who with one assent resolved, That the Law of the Realme of England *is, and alwayes hath beene such, that the children of the Kings of* England *in whatsoever parts they be borne, in* England *or elsewhere, be able and owe to beare inheritance after the death of their Ancestors*: Which when they had declared, *the King, Lords and Commons by a speciall Act, did approve and affirme this Law for ever, the onely Act passed in that Parliament.* And in a * Parliament, 11. E. 3. this Kings eldest sonne was created *Duke of Cornewall* by Parliament, which then also entailed the Dutchy of *Cornewall* upon the eldest sonnes of the Kings of England. So 21. *R.* 2. *c.* 9. the Principality of *Chester* was created and setled on the Prince by Act of Parliament.

* *Cook l.* 8 The Princes case.

* King *Henry* the fourth, the better to assure the inheritance of the Crownes and Realmes of *England* and *France* to him and his posterity, caused them by a speciall Act of Parliament, in the first yeare of his raigne, *to be entailed and setled on himselfe and the heires of his body begotten; and Prince* Henry *his eldest sonne to be established, pronounced, ordained, and decreed heire apparant to him, and to succeed him in the said Crownes and Realmes, to have them with their appurtenances after the Kings death, to him and the heires of his body begotten; And if hee should die without heire of his body begotten, then to remaine to the Lord* Thomas, *the Kings second sonne, with successive remainders to Lord* John *the third, and Lord* Humfry *the Kings fourth sonne, and the heires of their bodies begotten.* After which Act passed (for the avoyding of all claimes, titles, and ambiguities, to be made unto the Crowne) he thought never by any of his Subjects to be molested or troubled: the rather, because in this Parliament it was first concluded; that deposed King *Richard* should continue in a large prison, and be plenteously served of all things necessary both for viande and apparell, and if any persons should presume to reare warre or congregate a multitude to deliver him out of prison, that then he should be the first that should die for that seditious commotion: Which King *Richard* (as * Sir *John Bagot* by his Bill exhibited to this Parliament averred) had divers times, at sundry Parliaments in his time holden, said; that hee would have his intent and pleasure concerning his owne matters, whatsoever betide of the residue; and if any withstood his will or minde, he would by one meanes or other bring him out of his life; And further said to him at *Lichfield* in the one and twentieth yeare of his raigne, *that he desired no longer for to live then to see his Lords and Commons have him in as great awe and dread, as ever they had of any his Progenitors, so that it might bee chronicled of him, that none passed him of honour and dignity, with condition that he were deposed, and put from his said dignity the next morrow after.* So wilfull was hee, as to preferre his will before his Crowne or safety.

* *H.* 4. *c.* 2 *Hall* Chronicle, 1. *H* 4 *f.* 10 15. Fabian. *part.* 7. *p.* 376 Speed *p.* 763.

* *Fabian, part.* 7 *p.* 373.

(*n*) In the yeares 1440. and 1441. *Richard Duke of Yorke* came into the Parliament House, and there, in a large Oration laid claime, and set forth his Title to the Crowne of *England*, which King *Henry* the sixth had long enjoyed, *desiring the Parliament to determine the right of the Title betweene them, both sides submitting to their resolution as the proper Judges of this weighty royall controversie*: After long debate and consideration of the case among the Peeres, Prelates, and Commons of the Realme, *it was finally agreed and resolved by them: That in as much as* Henry *the sixth had beene taken as King for* 38. *yeares and more, that he should enjoy the name and title of King, and*

(*n*) *Hall, Anno* 38. & 39 *H.* 6. *f.* 176. to 183. *Fabian, Anno* 1441. *p.* 470. *Grafton p.* 643. to 648. *Holinshed, Stow, Hewes, Anno* 1440 1441.

and have possession of the Realme during his naturall life. And if he either died, or resigned, or FORFAITED THE SAME *for breaking any part of this concord, then the said Crowne & authority royall should immediately descend to the Duke of* Yorke (*King* Edward *the* 4. *his Father*) *if he then lived; or else to the next heire of his line. And that the said Duke from thenceforth should be Protector and Regent of the Kingdome. Provided alway, that if the King did closely or apertly, study or goe about to breake or alter this agreement, or to compasse or imagine the death of the said Duke or his bloud; then he* TO FORFEIT THE CROWNE: *and the Duke* TO TAKE IT: These Articles made by the Parliament betweene them, *they both subscribed, sealed, and swore to, and then caused them to be enacted.* Loe here we have these two Kings submitting their Titles to the Crowne and Kingdome it selfe to the Resolution of both houses of Parliament, as the Soveraigne Judge betweene them; who setled the Crowne in this order, under paine of forfeiting it by King *Henry*, if he violated their Decree herein; and appointing a *Lord Protector over the Kingdome in his full age*, as (*o*) *Walsingham* informes us, a *Parliament constituted Duke* Humfry *to bee Protector of him and his Kingdome of* England, *and the Duke of* Bedford *to bee Regent of* France, *during his minority*; who exercised all regall power, by vertue of that authority which the Parliament derived to them. After this, in these two Kings reignes, (*p*) the Crowne and its descent were variously setled by Parliament (as I have formerly manifested) yet so, as that which one Parliament setled in this kinde, continued firme till it was altered or reversed by another Parliament. King (*q*) *Richard* the third comming to the Crowne by usurpation, to strengthen his Title, procured *the Lords and Commons to passe an Act of Parliament*, wherein they declare him *to bee their lawfull King, both by election and succession, entaile the Crowne upon him and the heires of his body lawfully begotten, create his Sonne* Edward, *Prince of Wales, and declare him heire to succeed him in the royall Crowne and dignity after his decease.*

In which Act of Parliament (recited at large by *Speed*) there is this memorable passage: *That the Court of Parliament is of such Authority, and the people of this land of such a nature and disposition, as experience teacheth; that manifestation or declaration of any Truth or Right made by the three Estates of this Realme Assembled in Parliament, and by the Authority of the same, makes before all other things most faith and certainty, and quieting of mens mindes, removeth the occasion of all doubts, and seditious language*: (*r*) *Henry* the seventh afterwards slaying this usurping *Richard* at *Boswell-field, to avoyd all ambiguities and questions of his Title to the Crowne, in his first Parliament procured the Lords and Commons by a speciall Act, to settle the inheritance of the Crownes of* England *and* France, *on him and the heires of his body lawfully begotten, perpetually by the grace of God, so to endure, and on none other*, and all attainders and Acts against him, by *Edward* the fourth, and King *Richard* (*s*) this *Parliament annihilated*. After him King *Henry* the eighth, to ratifie his divorce from Queen *Katherine*, caused it to be confirmed, and his (*t*) marriage with her to be utterly dissolved by Act of Parliament: and by (*u*) sundry Acts, ratified his subsequent *Marriages, and setled the descent of the Crowne to his posterity, somewhat different from the course of the Common Law*; which Statutes were afterwards altered and the descent of the Crowne setled by other speciall Bils in Parliament, both in (*x*) *Queene Maries*, and *Queene Elizabeths* Reignes, whose Titles to the Crowne were setled, and in some sort created by the Parliament.

(*o*) *Historia Angliæ p.* 458. *Parliamentum fuit convocatum in quo Parliamento ex assensu omnium Statuum, idem Dux, Defensor seu Protector Angliæ fuerat nominatus & ordinatus, omniaq; Regni officia & beneficia ejus dispositioni sunt commissa.*

(*p*) See Grafton *p.* 691, 692. Speed *p.* 859. 878. 859. 886. 1. E. 4. *c.* 1. 17. E 4. *c.* 7.

(*q*) Speeds *Hist. p.* 928, 931

(*r*) *Hals Chro.* 1 H. 7. *f.* 855.

(*s*) *Grafton p.* 856.

(*t*) *Sp. p.* 1028.

(*u*) 25 H. 8. *c.* 22. 26 H. 8. *c.* 13. 28 H. 8. *c.* 7. 35 H. 8. *c.* 5. See *Hall.*

(*x*) 1 *Mar. c.* 1. & Parliament 2. *c.* 1, 2, 1. *Eli. c.* 3 13 *Eliz. c.* 1.

By

By the notable Sta. of 13. *Eli. c.* 1. worthy reading for this purpose, it is made no lesse then high Treason, to affirme; *That the Queene,* WITH, and BY THE AUTHORITY OF THE PARLIAMENT *of England, is not able to make Lawes and Statutes of sufficient force and validity to* BINDE, LIMIT, RESTRAINE *and governe all* PERSONS, THEIR RIGHTS AND TITLES THAT IN ANY WISE *may or might claime any interest or possibilitie* IN OR TO THE CROWNE OF ENGLAND *in* POSSESSION, REMAINDER, INHERITANCE, SUCCESSION, *or* OTHERWISE HOWSOEVER; *and all other persons whatsoever. King Edward* the sixt, *Queene Elizabeth,* and other our Princes holding their Crownes by a Parliamentary Title, rather then by the course of the * Common Law, which this Statute affirmes the Parliament hath power to *alter,* even in case of descent of the Crowne.

+ See *Cooks Institut. Littleton.* 15, 16.

It is observable that the Statutes of 25 *H.* 8. *c.*22. 28 *H.*8. *c.*7. and 35 *H.* 8. *c.*1. doe not onely *Nullifie some of this Kings marriages, and ratifie others of them, declaring some of his issues legitimate and hereditable to the Crowne, others not, and appoint the Queene, if living, to be Protector of the infant King or Queene, that should inherit the Crowne; or such of the Lords as the King by his last will should designe;* But likewise prescribe strict Oathes for every Subject to take, to maintaine the Succession of the Crowne, as it is limited by those Acts, which Oathes for any to refuse, is made high Treason, or to write or speake any thing against the succession of the Crowne as it is therein limited: And withall they derive a plenary authority to the King (who thereupon * *acknowledgeth the great trust and confidence his loving Subjects had in him, in putting in his hands wholly the Order and Declaration of the Succession of this Realme*) *by his Letters Patents under his Seale, or his last will in writing signed with his hand, for lacke of issue lawfully begotten of his body, to* * *give, limit, assigne, appoint or dispose the imperiall Crowne of the Realme, to what person or persons, and for such estate in the same, and under such conditions as it should please his Majesty. The Parliament therein promising by one common assent to accept, take, love, dread, and obey, as their Legall Governours, and Supreame heads, such person or persons onely, as the King by authority of those Acts should give the Crowne unto, and wholly to sticke to them as true faithfull Subjects. Provided, that if any of his Children or Heires, afterward did usurpe one upon the other in the Crowne of this* Realme, *or claime, or challenge the said imperiall Crowne, otherwise, or in any other course, forme, degree or condition, then the same should be given, disposed, or limited unto them, by the King, by vertue of those Acts. Or if any person or persons to whom it should please the King, by authority of those Acts to dispose the said Crowne and Dignity of this Realme, or the Heires of any of them, should at any time hereafter demand, challenge, or claime the Crowne of this Realme, otherwise, or in any other course, forme, degree or condition, then the same should be given, disposed, and limited unto them by the King, by vertue and authority of these Acts; That then all, and singular offenders, in any of the premises contrary to these Acts, and all their Abettors, Maintainers, Factours, Counsellours, and Aiders therein, shall bee deemed, and adjudged* HIGH TRAYTORS TO THE REALME; *and that every such offence shall be accepted, reputed, and taken* TO BE HIGH TREASON, *and the offenders therein, their ayders, &c. for every such offence shall suffer such judgement, paines of death, losses and forfeitures of Lands, Goods, and Priviledges of sanctuary, as in any cases of high Treason.*

* 35 H. 8. *c.* 1.

* 28 H. 8. *c.*7. 35 H. 8. *c.*1.

And over, *that as well* THE KINGS SAID HEIRES AND CHILDREN, *as* EVERY SUCH PERSON & PERSONS TO WHOM THE CROWNE SHOULD BE LIMITED AS AFORESAID, and *every of their Heires, for every such offence above specified, by them to be committed*, SHALL LOSE AND FORFEITE AS WELL ALL SUCH RIGHT, TITLE, AND INTEREST, THAT THEY MAY CLAIME OR CHALLENGE, IN OR TO THE CROWNE OF THIS REALME, AS HEIRES BY DESCENT, OR BY REASON OF ANY GIFT OR ACT DONE BY THE KING, *for his or their advancement, by authority of those Acts, or by any manner of meanes or pretence whatsoever.*

And the Statute of 35 *H.*8. *c.* 1. which entailed the Crowne upon Queene *Mary*, after *Edward* the fixt his decease without issue, hath this proviso; "That if the said "Lady *Mary* doe not keepe and performe such conditions as King *Henry* by his Let-"ters Patents or last Will in writing, should hereafter declare and limit to her said "estate in the Imperiall Crowne; That then and from thenceforth, the said Im-"periall Crowne shall be and come to the Lady *Elizabeth*, and the Heires of her bo-"dy lawfully begotten, in such like manner and forme, as though the said Lady "*Mary* were then dead, without any Heires of her body begotten, any thing in this "Act contained to the contrary notwithstanding. *And the like proviso there is for* "*Queene Elizabeth*, That if she performe not the like conditions, limited as afore-"said, to her estate in the Crowne, That then the said Imperiall Crowne shall be "and come to such person or persons as the King by his Letters patents or last Will shall appoint. By all which Acts, (worthy reading and consideration) the Parliaments Supreame power of setling and disposing the descent and inheritance of the Crowne, and giving Authority even to the King himselfe, to dispose of it upon condition, on paine of forfeiture as aforesaid (which the King alone had no power at all to doe) will easily appeare to the most malignant Spirits.

(*y*) 1 *Jac. c.*1. (*z*) 1 *Mariæ*, *Parl.*2.*c.*2. (*a*) 25 *H.*8.*c.* 19,21. 26 *H.*8 *c.*1,3. 27 *H.*8. *c.*10. 28 *H.*8. *c.* p.16. 32 *H.*8 *c.* 22,24,29. 31 *H.*8. *c.*10,14. 33 *H.*8.*c.*29. 34 & 35 *H.*8.*c.* 17,19. 35 *H*8 *c.*1,3. 1 *Eli. c.*1 1 *E.*6.*c.*2, 1 *Ma. c.*1. & Parl.2.*c.* 1. 8 *El.c.*1. (*b*) *Walsingham Hist. Angl. H.*5 *p.*458. *Speed p.* 1108. 28 *H.*8. *c.*7,17. 1 *E.*6.*c.* 11. *Hals Chron.* 1 *H.*6. (*c*) *Hist. Angl. p.*16 to 26. 31 to 33, 42. 46 to 56 See *Holin. Grafton, Stow, & Speed* in the life of *Edw.* the fift. *Polyd. Newst. p.* 72 to 96.

In the first (*y*) Parliament of our late King *James*, the first Bill then passed, was an acknowledgement, and confirmation of his immediate, lawfull, and undoubted succession and right to the Crowne of *England*, as the next and onely Heire of the blood Royall, to whom of right it descended; which *Dolman* the Priest, and some Jesuites opposed in Printed seditious Bookes. So the (*z*) Articles of Qu. *Maries* marriage with K. *Philip*, were appointed, and ratified by Parliament: And the Imperiall Ecclesiasticall Jurisdiction usurped by the Pope and Prelates, hath likewise by (*a*) sundry Statutes beene restored and united to the Crowne, and the Title of *Supreame head, and Supreame Governour in all causes, and over all persons, Spirituall, Ecclesiasticall and Temporall*, setled upon our Kings and Queenes; Who during their minorities have had Guardians and Protectors, appointed to them by (*b*) Parliament, to summon Parliaments, assent to Bills, and execute all Royall Jurisdiction in their names and steads. And as the Title and Right to the Crowne of *England*, and the Jurisdiction thereof hath thus from time to time beene decided and setled in and by our Parliaments, so hath the Title and jurisdiction of the Crowne of *Scotland*, beene (*c*) frequently discussed and setled in our Parliaments, upon appeales made to them by the Kings of *Scotland*, and their Corrivals to that Crowne; Witnesse the famous case,

case and competition for that Crowne long agitated and resolved in Parliament betweene the King of *Norway*, *Bailiol*, and *Bruce*, (to omit others) in the Reigne of King *Edward* the first; And this King *Edwards* Title to the Crowne of *Scotland*, declared and resolved by our Parliament here; All which are Recorded at large by *Thomas Walsingham*, and *Matthew Westminster*, in the life of King *Edward* the first, and in the Parliament Rolls, and Pleas of his Reigne, with (*d*) sundry other instances of this nature (frequent in our Historians) which for brevity I pretermit.

(*d*) 1 *Jac.* 1.

It is a (*e*) cleare case without dispute, that if the King should dye without any Heire, the Crowne would escheate to the whole Kingdome and Parliament, who might dispose of it in such a case, to what person they pleased, or quite change that forme of Government, if they saw good cause; no particular kinde of rule being so simply necessary by any divine Right or Law to any State or Kingdome, but that as it was at first instituted, so it may in such a case be changed by the whole Kingdomes generall consent, upon sufficient grounds. This appeares by the case of * *Charles the Grosse*, who being deposed from the Empire and his Kingdomes, for a mad man, and dying without any Heire, the Kingdomes which before were subject to him, *Destitute of a right Heire, began to fall in sunder on every side, and to chuse Kings of themselves of another Family*. *France* elected *Charles*, a childe, sirnamed *Simple*, for their King; and after his *simplicity displeased them*, they Crowned *Otho* Sonne of *Robert* Duke of *Saxony*, in his place: At the same time the people of *Italy* meaning to have a King of their owne, could not agree on the matter, but some chose *Beringarius*, others *Guido*, and so had two Kings in *Italy*, both calling and bearing themselves as Emperours; And the *Germanes* elected *Arnolph* Duke of *Bavaria* for their Emperour. Thus * *Zeno* the Emperour dying without any Heire that might succeed him, *Anastasius* a man of great reputation, *yet of no Noble Family*, was chosen his Successor, *by the Senate and Legions*. The like we reade of divers other Emperours deceasing without Heire; of some of our *Saxon* and *British* Kings, before the Conquest; and of other in *Castile*, *Aragon*, & other Kingdomes, where the Crowne hath beene translated from one Family to another, by the Kingdomes consent for want of Heires.

(*e*) 35 H. 8. c. 1.

* *Blondus Decad. 2 l. 2. Regn l. 2. An. 800* Bishop *Bilson* of Christian Subjection, &c. *par. 3. p. 423.*

* *Zona. Annal. Tom. 3. f. 126. Grimstons Imperiall hist. p. 303*

Duardus * *Nonius Leo*, a learned *Portugall* Lawyer, informes us; That *Ferdinand* King of *Portugall*, dying without any lawfull Heire, lineall or collaterall, as they beleeved; the Estates of that Kingdome assembling at *Coimbre*, elected *John* a bastard for their King upon this very ground, (specified in their decree of his Election) That King *Ferdinand* dyed without any lawfull issue or kindred; UNDE IURE GENTIUM, Whence BY THE LAW OF NATIONS, they affirmed it to BE LAWFULL FOR THE PEOPLE TO CHUSE A KING OR GOVERNOUR, WHOM THEY PLEASED. Beleeving therefore, that they had returned to that state WHEREIN BY THE LAW OF ALL NATIONS THEY MIGHT CREATE THEM A KING, namely the kingdome being voyd without an Heire; *They said they might lawfully elect John, a most valiant man, and one who best deserved of the Common-weale to be their King, he being begotten of the stocke of the Kings of Portugall.* Thus this whole Parliament at *Coimbre*; and this Lawyer there, and elsewhere * affirmes; THAT BY THE LAW OF ALL NATIONS, *if the King in an Hereditary Kingdome die without Heire*, THE PEOPLE MAY

* *Consu. in Joseph. Tel. Libel. c. 78. in lear. Pisterius hispan. illust. Tom. 1. cen. 2. p. 1250.*

* *Ibid ca 76. p. 1248.*

MAY LAWFULLY ELECT WHOM THEY PLEASE FOR THEIR KING; as they do in all elective Realmes: Which *Joannes Mariana, de Rege & Regis Instit. l.1. c.3,4.* doth likewise averre: The reason is, * *Because the whole kingdome and people are the originall Supreame Soveraigne power, by whose common consent and Authority all lawfull Kings, kingdomes, and Royalties were at first created and instituted, and from whom they derived all their regall Jurisdiction*: And therefore as all *Mesnalties, Tenancies, and Fees, by the deaths of their Tenants without heire, returne by way of Escheate to those Lords and Serguiories, by whom they were originally created*; *and all politique Corporation Lands, (as Abbies, Prioies, Bishopricks, Hospitals, and the like,) by the dissolution of those Corporations by death or otherwise, returne to the first founders of them*; (*as * all Rivers run into the Sea, out of which they primitively issue:*) So all successive kingdomes by the selfe same reason, upon the Kings decease without any lawfull heires to inherit or succeed them, must by all Law, right, equity, revert to the dispose and dominion of all the People of the Realme, or to the representative Body thereof the Parliament as to the Supreame Lords and Founders of it; from and of whom the King himselfe doth hold the Crowne, (if I may so speake) *by those regall duties and services expressed in generall in his Coronation Oath, which he takes to all his people*; and if he die his Heire to the Crowne being within age, the Parliament and kingdome as the Soveraigne Lord and power may and usually doth appoint a * *Guardian and Lord Protector over him* (as I have * elsewhere proved) *till his maturity, to discharge his regall Trust and duty to his people in his name and stead.* Hence *Hugo Grotius* in his Booke *de Jure Belli & Pacis, l.2.c.9. sect.* 8,9,10,11. concludes: *That if an elective King dye, or a successive King decease without any knowne heire to succeed him, the Empire or Soveraignty which was in the King as Head, returnes unto, and remaines in the people as in the intire body, which continues the same it was before: And therefore in such cases they may either create a new King if they please, as in elective kingdomes, or divide the kingdome into parts, and erect a new Empire, as the* Romans, Germans *and* Persians *did*; *or change the Government*; *the people in this case being* Sui juris, *having the raines of Government in their owne hands, as at first before they erected an hereditary Monarchy, to order and dispose of the government as they shall thinke meete: it being a thing which in its owne nature is not capable of an Occupancy, nor seisible by any, unlesse the people will voluntarily desert their owne liberty, none having authority to usurpe a regency over them in such a case, but by their free assents.* Upon which ground he holds with *Cynus*, and *Raynorius*, *That if the Roman Emperour* (or any other King by like reason) *be sicke, or taken prisoner, so as he cannot administer the government, the people of* Rome *may create and appoint him a Vice-roy to governe them*; *the power of the Emperour, and the most absolute Monarch, being onely a power of* Administration *for the peoples good and service, not of* dominion *for his owne profit*; *of which none but the people can dispose*; as * *Abberius Gentilis* proves at large.

Yea, Bishop *Bilson* (*f*) himselfe (though a great Royalist,) positively affirmes; *That if a King, or right Heire to any Crowne be borne, or becomes a naturall Foole, or starke mad, or run besides himselfe, so that he is not able to governe himselfe, much lesse his Realme; in these two cases,* ANY REALME BY PUBLICKE CONSENT and ADVICE MAY CHUSE ANOTHER KING: (for what should he doe with a Royall Office, or by what divine or humane right can he enjoy a Crowne, who is utterly unable to manage it?) Upon this ground (*g*) King *Childerick* was deposed by his *French* and *German Subjects generall consents*, because he *was a foole*,

* See *Marius Salamonius de principatu, l.1,2 3,6. p.19,20, 27,41, 120, 126.*
* See *Fitz. Ash. Tab. Tit. Escheat*
* Eccles. 1.7.

* See *Leges Edwardi Confess. c. 17. Bract. l.3.c.9.*
* See *Par. 2. p. 48 to 65.*

* *De Jure Belli l.3.c.15.*
(*f*) The true difference betweene Christian subjection & unchristian rebellion, *part.3. p.418. to 422.*
(*g*) See the generall history of *France* in his life, *Sabellicus Ennead. 8. l.8. p. 245. Nauclerus vol.3. Gen.26. Blondus, Decad. 1. l.10 Aventinus, l.3. p.293, to 300. Gaguinus l.3. in Car. Mart. Herman. Schedel, Chron. Æras 6. f. 185.*

fool, a Sot, a Beast, unable to govern his Kingdom, and *Pepin* of another race, *elected and crowned King in his stead*; which act by Pope *Zacharies* resolution, was adjudged both just and lawfull, even in point of conscience, before it was put in execution. So (3) *Charles* the third, the last Emperour of *Pepins* race, was deposed from the Empire, by the Princes, Dukes, and Governours of the Provinces of *Germany* and *France, for that he became foolish and unfit to govern, being bereaved of his senses; and by common consent*, Arnolph *was elected Emperour in his stead*: Thus (4) *Justinus* the second falling into a frenzie and madnesse, so that he had no sense nor understanding of any thing that was done, was removed, and *Tiberius* placed in the Empire; at his Coronation, *Justinus* used this notable speech; *Let not the glory of these Imperiall robes, lead thee into errour, neither be thou deceived with the glorious shew of such things as are subject unto the senses, wherewith I my self now (alas) being snared, have brought my self foolishly into grievous torments. Wherefore in governing the Empire with great moderation and mildnesse of spirit, redresse what is amisse, and correct what I have lewdly committed.* And pointing at his ill Counsellors with his finger, he said; **Thou must in no wise be ruled by these men, for these be those which brought me into this lamentable plight, and the misery thou seest me in.* A memorable strange speech of a distracted Prince. And thus the Emperour (5) *Wenceslaus*, was likewise deposed by the Princes electors of the Empire, *For besotting himself so with pleasures, &c. as that he became altogether unfit for the government, and a man unprofitable for the Empire and Christian Common-Wealth*; and *Rupert* Count Palatine of *Rhine*, and Duke of *Bavaria*, was elected Emperour in his stead. The like (no doubt) might be lawfully done here in *England*, by the whole Kingdom and Parliament, if any such cases of incurable folly or frenzy should befall any of our Kings, who might then either create a Lord Protector to govern both King or Kingdom, during such disabilities of Government in the King (as (6) *Childricke* for a time, before his deposition, was governed and overruled in all things by the Marshall of the Palace) or else Crown the next Heir King, if he be capable to Govern. Yea, in the time of our Saxon Kings, when the right Heir was an Infant, unable to govern, the Crown usually descended to the next Heir of full age: Hence * *Wibba* King of *Mercia* deceasing, *Penda* his son being an Infant, the Crown descended to his Nephew *Ceorl* of full age, after whose death *Penda* being of ripe age inherited the Kingdom. So King *Wulfcher* deceasing, leaving his son *Kenred* within age, his Brother *Ethelred* succeeded him; who resigning his Crown and turning Monke after he had Reigned 30. yeers, *Kenred* then of full age enjoyed the Crown. So *Ethelfred* King of *Northumberland* dying, *Edwall* his Brother entred the Government and Reigned, *Aldulfe*, *Ethelherds* son, being then a minor, who enjoyed not the Crown till after *Edelwalds* death. So * *Cassibelan* succeeded *Lud* his Brother in the Kingdom of *Britain*, *Luds* sons being too young and insufficient to Reign: The like was very usuall in *Scotland*, of which there are divers presidents in *Grafton*, *Hector Boetius*, and *Buchanan*, which I pretermit. All which particulars laid together, are a most clear unanswerable demonstration, that the Soveraignest power and Jurisdiction of all others, resides in the whole Kingdom and Parliament, not in the King himself, since they may thus dispose of the very Crown it self, and are the sole and onely supream Judges to determine all controversies, all titles which concern it; The King alone having no power to transfer it to any other without the Lords and Commons free consents, as was resolved

3 *Godfredus Viterbiensis Chron. pars 17. col 468. Regino l. 3. An. 887. H. Mutius, Germ. Chr. l. 12. Grimstons* Imperiall Histor. *p.* 404.

4 *Evagrius Eccl. hist. l. 5. c. 11 l. 13. Zonaras Annal. Tom. 3 f. 150. 151. Eutropius l. 16. p. 211.*

* *Nota.*

5 *Grimstons* Imperiall History *p.* 581, 582. *Sententia Exauctorationis & Depositionis Wenceslai, An.* 1400. *in Germ. Hist. Tom. 2. p.* 180. 181. *Jean. Cressin. L'estate de Lesglise p.* 465.

6 *Aventine l.* . *f.* 293. *Frisig. l. 3 c. 13. Naucl. vol 3. Gen. 26.*

* *Speeds Hist. p.* 252. 253. 262. 364, 365. See *Matthew West. Polychr. Floren. Wigorn. Holinshed, Huntindon*, and others.

* *Gaufredus Mon. l 3 c. 20. Grafton p. 67.*

7 *Grafton l.* 1, 112.

in the case of King *John*, who resigned and granted his Crown to the Pope, without the Kingdoms consent; and therefore the resignation and grant were adjudged void not onely by the * French King and his Lords, but by our own Parliament, as you may read in 40. *Ed.* 3. *Nu.*8. and in Doctor *Crakenthorpe*, Of the Popes temporall Monarchy, *Cap.*2. *p.*251. *to* 255. I shall conclude this point with the words of this memorable Record; * *The Prelates, Dukes, Counts, and Barons, being in the white Chamber, and the Commons in the Painted Chamber; it was shewed unto them by the Chancellour, how they had understood the cause of the Summons of Parliament in generall; but the will of the King was, that the causes should be shewed unto them in speciall, telling them how the King had understood that the Pope by vertue of a Deed, which he said that King* John *had made to the Pope to do him homage for the Kingdom of* England *and the land of* Ireland, *and that by reason of the said homage that he ought to pay him every yeer perpetually one thousand Marks; and that he purposeth to make out Processe against the King and his Realm, for the said Service and Rent, concerning which the King prayed the advice and counsell of the Prelates, Dukes, Earls, and Barons: and what he should do in case the Pope would proceed against him for this cause, or against the said Realm: And the Prelates prayed the King that they might thereupon advise alone by themselves, and return their answer the next morning: Which Prelates by themselves the next morning, and after the said Dukes, Earls, Barons, and great men, answered and said; That the said King* John, NOR NO OTHER, MIGHT PUT HIMSELF, NOR HIS REALM, NOR HIS PEOPLE IN SUCH SUBJECTION, WITHOUT THE ASSENT AND ACCORD OF THEM: *And the Commons being advised and consulted with thereupon, answered in the same manner. Whereupon it was ordained and assented* BY COMMON CONSENT *in manner following; In this present Parliament held at* Westminster, *the Munday next after the Invention of holy Crosse, in the yeer of the reign of King* Edward, *the* 40. *as well to maintain the estates of holy Church, as the rights of his Realm and his Crown, it hath been shewed amongst other things; how it hath been reported and said, that the Pope by vertue of a Deed which he said that the said* John, *late King of* England, *had made to the Pope in perpetuity, to do him homage for the realm of* England *and land of* Ireland, *and by reason of the said homage to render to him an Annuall rent, and hath purposed to make Processe against the King for to recover the said Services and rent; The which thing being shewed to the Prelates, Dukes, Earls, Barons, and the Commons, to have their advice and counsell thereupon, and to demand of them, what the King should do in case that the Pope should proceed or attempt any thing against him or his Realm for this cause: Which Prelates, Dukes, Earles, Barons, and Commons having taken full deliberation thereupon, answered and said,* OF ONE ACCORD; *That the said King* John, NOR NO OTHER MIGHT PUT THEMSELVES, NOR HIS REALM NOR HIS PEOPLE IN SUCH SUBJECTION WITHOUT THEIR ASSENT. *And as it appears by many evidences, that if it were done, it was done* WITHOUT THEIR ASSENT, AND AGAINST HIS OATH IN HIS CORONATION. *And moreover that the Dukes, Earls, Barons, great men, and Commons accorded and granted, That in case the Pope would endeavour or attempt any thing by Processe or any other act, to constrain the King or his Subjects to perform what is said*

* *Matth Paris, p.* 270.

* 40 E.3. n.7.8.

said he will claim in this behalf; *That* THEY WILL RESIST AND OPPOSE HIM WITH ALL THEIR MIGHT. And before this in the great * *Councell of Lyons*, the Proxies and Procurator of the Church and *realm of England*, in the name of the whole Realm, complained and protested against this grant of King *John* as a meer Nullity, BECAUSE IT WAS MADE WITHOUT THE CONSENT OF THE REALM AND LORDS, *Which neither did, do, nor ever after would consent thereto, as I have elsewhere proved*: This being the common received opinion of all Civilians and Statists, That *no King or Emperour can alien, or engage all or any part of his Kingdom to another without his Subjects generall consents, and that such an alienation or Morgage is meerly void in Law to all intents*, as *Albert. Gent. De jure Belli, l. 3. c. 15.* and *Hugo Grotius* proves at large, *De jure Belli & Pacis*, l. 2. c. 6. 7. & lib. 1. cap. 4. sect. 10. where he affirms, That *a King who aliens and would actually deliver up possession of all or any part of his Realm to another forraign power without the peoples consents, may lawfully be resisted with force of Arms by his Subjects*; concluding with this Sentence out of * *Seneca*, with which I shall close up this Discourse; *Etsi parendum in omnibus Patri* (naturall or politicall) IN EO NON PARENDUM QUO EFFICITUR NE PATER SIT.

* *Matthew West. chr. 1245. p. 191 to. 197. Walsing. Ypodig. p. 60 Matthew Paris. p. 646. Here part. 2 p. 13.*

* *Contr. l. 11. contr. 9.*

This point I have thus copiously debated, not out of any the least intention to derogate from his Majesties just *Supremacie* and *Prerogatives royall*, which I have oft *solemnly sworn to maintain to the utmost of my power*, and shall (God willing) perform; but out of a serious desire to rectifie the generall mistakes of men, touching a pretended Prerogative, which their fantasies onely (not the Law) have unduly attributed unto Kings: and to vindicate the just *Liberties, Priviledges*, and *Prerogatives* of Parliaments (so much decryed, declaimed against of late by a company of ignorant Papists, Malignants, Royalists, who know not what the jurisdiction of Parliaments is) according to the *Protestation*, the clearing of which points (in my weak apprehension) is the onely high and ready way to compose our present differences, to settle all our distractions, which the ignorance, the mistakes of the Kings and Parliaments just Prerogatives and Powers, (next to the treacherous malice of Papists) have principally raised among us, almost to the ruine of the Kingdom. For my part, I profesle sincerely, I love and honour both King and Parliament alike, and in the controversies now between them concerning their Jurisdictions, stand as a man indifferent to do right to both, without prejudice to either; and the King being the Principall Member of the Parliament, the elevating of its now disdained Power to its due altitude, can be no depression, but advancement of the Kings Prerogative, which shines most perspicuously in Parliaments, whiles King and Parliament are united, and is most eclipsed onely when they are divided, as the precedents in all ages manifest. And this I dare confidently averre, That there are no such enemies to the Kings Prerogative, as those who advancing it beyond due bounds, do necessarily draw it into dispute, in which it commonly comes off with losse and diminution in the end, as in the late cases of *Loanes*, *Ship-money*, and the like. It was a notable true Speech of our King * *Henry* the 8. in the 34. yeer of his reign in the case of one *George Ferrers*, a member of the Commons house, arrested contrary to their Priviledge, of which the King being informed, used these words among other to the *Speaker* and House of Commons,

* *Hollinshed p. 1584. Crompton Jurisdict. of Courts f. 10.*

We are informed by our Judges, That we at no time ſtand ſo highly in our eſtate Royall, as in the time of Parliament; wherein we as Head, and you as Members, are knit together into one Body politick; ſo as whatſoever offence and injury (during that time) is offered to the meaneſt of the Houſe, is to be judged, as done againſt Our Perſon, and the whole Court of Parliament; Which Prerogative of the Court is ſo great, as all Acts and Proceſſes coming out of Inferiour Courts, muſt for the time ceaſe, and give place to the higheſt; which being ſo, My Vindication of the Parliaments Soveraign Power and Right, can be no impeachment, nor diminution of the Kings juſt Authority, though many Sycophants and Malignants falſly repute it ſo.

Object.

(f) 1 Eliz. c. 1.
(g) Lib. 1. c. 8. f. 5, 6. l. 3. c. 3. f. 107.
(h) L. 1. c. 5. 17.
(i) 3 Ed. 3. 19. Corone 161. 22. E. 3. 3. b. Dyer, 297. a. Stamf. 153. a.
(k) 22 E. 3. 3 b.
(l) Bracton l. 2. Anſw. c. 16. f. 134. a. Fleta l. 1. c. 17.
(m) Parem autem habere non debet, nec multo fortius ſuperiorem, maxime in juſtitia exhibenda, licet in juſtitia recipienda, minimo de regno ſuo comparetur, lib. 3. c. 9. f. 167. a.
(n) See Bodins Common-wealth. l. 2. c. 1. p. 192. the like of the Parliaments in France.
(o) See Modus tenendi Parliamentum Camb. Brit. peg. 177. Cromp. Juriſ. of Courts, f. 1 to 6. Sir Tho. Smiths Common-wealth. l. 2. c. 2, 3. Hol. Deſcrip. of England c. 8 Cowel & Mirror. Tit. Parl. Mr. Hub. manner of paſſing Bills, ſect. 8.

If any here object againſt the premiſes, (f) That *the King is the only Supreme Governour of this Realm*, That (g) *Bracton*, (h) *Fleta*, and our (i) *Law Books* reſolve: *That the King hath no Peer in His Kingdom, for ſo He ſhould loſe His Empire, ſince Peers (or Equals) have no command over one another; much more then ought He not to have a Superiour, or mightier, for ſo He ſhould be inferiour to thoſe who are ſubject to Him; and inferiours cannot be equall to Superiours. The King ought not to be under man, but under God and the Law. If then Juſtice be demanded of Him by Way of Petition, (becauſe no Writ runs againſt Him (though (k) anciently ſome Writs did) if He do not juſtice, this puniſhment may be ſufficient to Him, that He may expect God will revenge it.* Nemo quidem de factis ſuis præſumat diſputare, multo fortius contra factum ſuum venire, &c. *Therefore the King is above the Parliament, and whole Kingdom, not they above Him.*

I anſwer, Firſt, That the meaning of all theſe Books is, That the King is above every one of His Subjects, and hath no Peer nor Superiour, if they be taken particularly and diſtributively, as ſingle men; as the words *Parem, Superiorem*, in the ſingular number, and the like, explain the meaning of the Books to be. But if we take them collectively in Parliament, as they are one body and repreſent the whole Kingdom; then theſe very Authors reſolve (in their forequoted words) That *they* (l) *are above the King, and may, yea, ought to reſtrain and queſtion his actions, his Mal-Adminiſtrations, if there be juſt cauſe.*

Secondly, *Bracton* explains himſelf, how He is higheſt and without a Peer, to wit, *In* (m) *diſtributing Juſtice*, that is, *He is the higheſt Juſticiar in the Kingdom, but as low as any in receiving Juſtice.*

Thirdly, Even in Parliament it ſelf, the King is the Supreme Member, and in that regard the Parliament in moſt publike Acts, in all their Petitions or Addreſſes, uſuall ſtiles him, (n) *Their Soveraign Lord*: Beſides, The Parliament *it ſelf is ever* (o) *ſummoned, diſſolved by his Writ, in his name, by his Authority*: And in paſſing all Acts and Bills of Grace, or ſuch as are not ſimply neceſſary for the publike ſafety and utility of his people, *He hath an abſolute negative voyce, and his Royall aſſent is in ſome ſence ſimply neceſſary for the paſſing of all ordinary laſting binding Laws*: In which reſpects he is, and may be truely ſaid in ſome ſence, *To be above the Parliament it ſelf, and the only Supreme Governour*; but yet in the forenamed regards, the Parliament really is, and may be juſtly averred to *be Paramount him, and the Supream ſoveraign Power*, though not *Governour*.

Fourthly, The Oath of Supremacy, *That the King is the only Supreme Governour*, relates only, and at leaſt principally to the Popes forraign Princes Authorities, formerly uſurped in this Realm, as the Title, Words, ſcope of the Statute of 1 *Eliz.*

cap. 1. and the very next words in the Oath it self undenyably manifest, (*And that* NO FORRAIGN *Power, Person, Prelate, State or Potentate hath or ought to have any Jurisdiction, Power,* SUPERIORITY, PREHEMINENCE, *or Authority, Ecclesiasticall or Spirituall within this Realm; and therefore I do utterly renounce and forsake* ALL FORRAIGN *Jurisdictions, &c.*) Therefore it refers not at all to Parliaments, or their Jurisdiction, Power, Superiority, Preheminence, or Anthority; not so much as once thought of by the prescribers of this Oath, which had its creation and Authority from the Parliament, and made some addition to the Kings Prerogative.

Fifthly, (*p*) *Bodin* with others (as I shall hereafter manifest) assure us, That the *Soveraign Power, and Jurisdiction both in the Roman and German Empires, and in most forraign Christian Kingdoms, was, and yet is, in the Senate, People, Parliaments, States, Dyets; yet this is no empeachment at all to their royall Supremacies, or Titles of Supreme Heads, and Governours, within their own Dominions, no more then the asserting of generall Councells to be above Popes themselves,* by the learnedst Papists, is any derogation (as they hold it is not now) to the Popes most absolute pretended *Soveraignty* (*q*) *above all Emperours, Kings, Princes, Prelates, Subjects, and the World it self, of which they affirm him sole Monarch:* Therefore by the self-same reason, this asserting of the whole Kingdoms, and Parliaments power to be above the Kings, is no diminution at all, much lesse a denyall of his Supremacy, and just Prerogative Royall.

(*p*) *Commonw. l.* 1. *c.* 9. *l.* 2. *c.* 5.

(*q*) See *p.* 2.

If then the Parliaments Power be thus higher and greater then the Kings Personall Power and Jurisdiction out of Parliament, it will necessarily follow from hence:

First, That in these unhappy times of division and separation of the Kings Personall presence (not legall which cannot be severed) from the Parliament: The Lords and Commons Orders, Votes, Ordinances, made legally in Parliament it self, are to be preferred, obeyed by all the Kingdom, before any His Majesties Proclamations, Declarations, Commissions, Warrants, or Mandates, made illegally out of Parliament in affront of both Houses proceedings and Decrees, since when ever two distinct powers command different things, that are lawfull, or of the same nature, the higher Power ought still to be obeyed; *As if a Master commands his Servant one thing, and the King another; or the King one thing, God another; the King is to be obeyed before the Master, because the Superiour Power; but God before the King, because the highest Power, as the* (*r*) *Fathers and Canonists* resolve most fully: And* Doctor *Ferne* with other afferters of the Kings Prerogative, not only grant, but prove; And therefore presse an absolute Obedience to all the Kings commands against the Parliament, on this false ground; Because the King (say they) is the highest Soveraign Power, and above the Parliament it self: The contrary whereunto being now made evident to all men; The Argument falls fatally on them that urge it. The Parliament, not the King, is the most Soveraign Power: *Ergo*, Its Votes, and Ordinances must be preferred and obeyed before the Kings.

(*r*) See *Gratian causa* 11. *qu.* 3. where he quotes *August. Hier. & Isidor.* to this purpose.

* Resolving of Conscience, *sect.* 1, 2, 3. An appeal to thy conscience, and others.

Yea, The Parliament being the highest Power, the King Himself ought to submit thereto, and to be ruled and advised thereby. This conclusion (though it may seem a Paradox to most men) is an undubitable verity both in point of *Divinity* and *Policy*, as is most apparent, by the 1 *Sam.* 14 38. to 46. and *c.* 29. 1, to 11. 2 *Sam.* 18.

2,3,4. *c.*19.1. to 9 1 *K.*12.1. to 25. 2 *K.*20.7,8,9. 1 *Chr.*13.1. to 6. 2 *Chr.*10. & 11 *c.*30.2,3,5,23. *c.*32 3. *Esth.*1.13. to 22. *c.*9.23. to 23. *Jere.*38.4. to 28. *Dan.*6.4. to 20 *Jonah* 3.7. *Ezra* 10. 3.8. *Eccles.* 4.13. *Prov.*11. 14. *c.*15.22. *c.*25.5. compared together, and with *Josh.*22.11. to 34. *Judg.*20.1. to 20. (where we finde the *Princes, and people alwayes overruling their Kings, who submitted their judgement wholly to them, not the Kings overruling their Princes and people*;) who as *Josephus* records, *Antiqu. Judæorum, l.*4. *c.*18. *Ought to do nothing besides, against, or without the sentence of the Senate, or Congregation*; Whence King *Zedechiah said unto his Princes,* Jere.38.4 5. *The King is not he that can do any thing against you*: And in point of *Law* and *Conscience,* even in our own Kings and Kingdom, as is clear by 20 *E.* 3. the Preface, and *c.* 1. 25 *E.*3. Parliament 6. the Statute against Provisors, 38 *E.* 3. Stat.2. *c.*1,2,3. 3 *E.*1. *c.*17. and 48, with other Statutes which I shall hereafter cite at large, in answer to the fourth Objection, concerning the Kings negative voice; which Texts and Statutes those who will, may peruse at leisure for their better satisfaction. And in *Pauls* time, the highest *Powers* in *Rome,* were not the *Roman* Emperours, as ignorant Doctors make the unlearned world beleeve, but the *Roman* Senate, who had full power, not only to elect and command, but censure, and depose their Emperours, and adjudge them unto death, as * *John Bodin* acknowledgeth, and I shall hereafter abundantly manifest in the *Appendix*.

* *Commonwealth l.*2.*c.*5.

Secondly, That the Parliaments resisting of the Kings personall Commands (especially such as are illegall and destructive to the Kingdom) or any private Subjects resisting them by vertue of a publike Ordinance or Countermand from the Parliament, is no resisting of the higher Power, against *Pauls* injunction, *Rom.*13.1. to 7. as (*f*) Doctor *Ferne,* and other illiterated Doctors vainly fancy, but a direct submission and obedience to *the highest Powers* (the Parliament;) and those who resist the Parliaments Ordinances and Commands (especially such as tend to the preservation of Religion, Laws, Liberties, Priviledges of Parliament, and the Kingdom, or bringing Delinquents to condign punishment) though they do it by vertue of any extrajudiciall countermand from the King or His ill Counsellors, do both in point of Law, Divinity, Conscience, *resist the higher Powers,* because they resist the Parliament (which is in truth, the highest Power, as I have manifested, not the King:) and so *shall receive damnation to themselves* for it, either here, or hereafter, if they repent not; which I seriously desire all those Delinquents, Papists, Malignants, ill Counsellors, and Cavaliers, to consider, who contrary to severall Orders, and Declarations of Parliament, yea contrary to the Law of God, of Nature, of the Realm, have like unnaturall Vipers, taken up offensive Arms against the Parliament and Kingdom, to ruine them, Religion, Laws, and Liberties at once.

(*f*) Resolution of Conscience, *sect.* 1, 2 *&c.* And Revindication of *Psalm* 105.15. Printed at *Cambridge,* 1643.

Thirdly, Hence it follows, That the *Resolutions* and *Declarations* of the Lords and Commons in Parliament, the supremest Court, against the *Commission of Array, Arming of Papists, raising of Forces, imposing Taxes to maintain Warre against the Parliament, Plundering,* and the like, ought to be obeyed, and submitted to, as lawfull and binding, both by the King Himself, the Kingdom, and every private Subject whatsoever; and that the Kings extrajudiciall and illegall Declarations out of Parliament in direct opposition and contradiction to these Resolutions and Votes of both Houses in Parliament, ought not to be obeyed, the King himself as our Law Books

Books resolve, *Being no* (*t*) *competent Judge* (especially out of his Courts) *what is Law, or What not in those Cases, but the Parliament only.* Which extrajudiciall new device of controlling, affronting the Resolutions and Declarations of both Houses, by opposite Proclamations, and Declarations published in his Majesties name; is such a transcendent violation of, and contempt against the known priviledges, the sacred venerable Authority, and power of Parliaments, as (I am confident) no age can Paralell; and if not severely vindicated by exemplary punishments of the highest nature, upon those ill Counsellors, and corrupt Lawyers, who contrive and pen them, will bring this *highest, greatest and most honourable Court* (*wherein the* (*u*) *whole Kingdom, and every Member of it are represented*) into greater contempt and lesse estimation with all men, (whether Natives or Forraigners) then the basest Court of Pipouders is. No King nor Subject ever yet attempted such affronts against the Resolutions of any Judges in inferiour Courts; Let no person whatsoever then presume by pen or tongue, any longer to arraign or traduce the Resolutions and Ordinances of this highest Tribunall. If Kings or Counsellors of State, will instruct or excite the Subjects, peremptorily to disobey and contemne the Ordinances, the Judgements of the Parliament, let them never expect the least obedience or submission to any of their own commands, which are of lesser credit and Authority; which all former Ages have most reverenced and submitted to.

(*t*) 3 *H.* 4. *n.* 7. *b.* 24 *H.* 8. *c.* 12. 52 *H.* 3. *c.* 1. 25 *H.* 8. *c.* 21. *Cooke.* Institutes on *Mag. Charta, f.* 103. 25 *Ed.* 3. *Part.* 2.

(*u*) 31 *H.* 8. *c.* 1. 1 *Jac. c.* 1. *Dr.* & Student, 44. *a.*

Fourthly, That the Parliament and whole Kingdom, being the highest Power, or any Member of the Parliament, cannot by any publike Acts or Votes of theirs consented to in Parliament, become *Traytors*, or guilty of *high Treason*, against the King, either by the Common Law, or the Statute of 25 *Edw.* 3. *chap.* 2. of *Treasons*, which running in the singular number; *If A MAN, &c.* (That is, any private man or men, by their own private authority) *shall levy warre against the King, &c. it ought to be judged high Treason*; extends not to the whole Kingdom, or Court of Parliament representing it, (of which no treason was ever yet presumed,) the rather, because the Parliament by this very act is *made the Judge of all Treasons that are doubtfull*, and was never yet included within the words or meaning of any Law concerning *Treason*, and therefore cannot be guilty of it. Hence the depositions of (*a*) *Archigallo* and *Emerian*, two ancient *British Kings, by the unanimous assent of the Lords and Commons, for their rapines, oppressions, and Tyranny*, with other forenamed Saxon Kings; and of *Edward* the second, *Richard* the second, *Henry* the sixth, *Edward* the fourth, by Acts of Parliament; the creating of *Richard* the third, King; with the frequent translations of the Crown from the right Heir at Common Law, to others who had no good Title, by the whole Kingdom or Parliament, (no lesse *then* ( ) *high Treason in private persons*) was never yet reputed, much lesse questioned for, or adjudged high Treason in the whole Kingdom or Parliament, or any chief active Members in those Parliaments; which by the Law, are uncapable of Treason, for any their judiciall actions and resolutions in such cases, being only *Tortious* and *Erroneous*, reversible by other Acts in Parliament, not *Trayterous* and *Rebellious*, as appears by all the forequoted Statutes; and by 13 *Eliz. cha.* 1. which makes it *high Treason for any person to affirm, That the Queen by Authority of the Parliament of* England, *is not able to make Laws and Statutes of sufficient force to alter, limit, and binde the Crown of this Realm, and the Descent, Limitation, Inheritance, and Government thereof, and any mans Title, or right thereto.*

(*a*) *Graf part* 6. *p.* 62, 63. *Galfredus, Momun. Fabian, Polycha.* and others.

(*b*) *Fag* 5 *to* 10.

(*c*) *Bracton l.* 2. *Glan. l.* 2. *f.* 112. *Mirror, c.* 1 *fol.* 4 *Britton. c.* 8. *f.* 16. *c.* 22 *f.* 39. 25 *E.* 3 *c.* 2. See *Rastal, Broke, Stamf. Crompt. Dalton*, in their Titles and Chapters of Treason.

And

And for direct Authorities in this very point, (e) *Robert Trisylian* and *Belknap* (then chief Justices) *Holt*, *Fulthorp*, and *Burgh*, Judges, *Locton* Kings Sergeant, and *Blake* the Kings Counsell, in the Parliament of 11 *Rich.* 2. *Were condemned, executed, and banished the Realm, as guilty of high Treason*, only for affirming under their Hands and Seals. (f) *That the Duke of* Glocester, *the Earls of* Arundel *and* Warwick *were*; and that other Lords and Commons *might be guilty of high Treason, for procuring a Commission, and other proceedings Voted in Parliament, and be punished for it as Traytors.* Which opinion of theirs, being afterwards *affirmed for Law, in a packed Parliament*, 21 *Rich.* 1. was the very next Parliament in 1 *Hen.* 4. *c.* 2, 3, 4. repealed, and the judgement given against those Judges for this Trayterous opinion (tending to the utter subversion of Parliaments) *resolved, and enacted to be just.* This (g) *Judge* (h) *Belknap* foresaw, and therefore was unwilling to put his Seal to this opinion, saying; *There wanted but a hurdle, a horse, and halter, to carry him where he might suffer the death* HE HAD DESERVED: *For if I had not done this, I should have dyed for it, and because I have done it*, I DESERVE DEATH *for betraying the Lords.* Which makes me wonder at a passage in (i) *Speed* (who records it) now frequent in Malignants mouthes. *That the very shop where the Barons originall Treasons were forged, was* THE PARLIAMENT-HOUSE, *Wherein from time to time they forced on the King* (Edward the second) *presumptuous and* TREASONOUS ORDINATIONS, *not only to reform the Kings House and Counsell, and to place, and displace all great Officers at their pleasure; but even claimed a joynt interest in the Regiment of the Kingdom, together With the King, which* William Inge (*a Judge of the Common Law*) *With other like sticklers, trayterously perswaded them, was according to Law:* Which grosse slander of the *Parliament House*, would have been capitall at least in former ages, and may now indanger the necks of those who speak or write the same of the present Parliament. Never did any of our Kings, charge any Parliament with high Treason hitherto; much lesse indict or wage warre against their Parliaments, as Traytors, though they have questioned and deposed Kings for offences against, and being Enemies or Traytors to the Kingdom: Let none then dare affirm, That the Houses of Parliament are, or can be Traytors now, for providing for their own, and the Kingdoms safety, by a necessary defensive Warre, which I shall in the third part fully clear to be neither Treason, nor Rebellion against the King in point of Law, or Conscience, either in the Houses of Parliament, or any that bear Arms by their command.

Fifthly, That to conspire or levy warre against the Parliament, or Kingdom, to dissolve, or destroy it, or the Members of it, is no lesse then *High Treason*; as hath been solemnly adjudged in Parliament, 15 *E.* 2. in the Act entitled, *Exilium Hugonis le de Spenser*, in 1 *E.* 3. the Preface, and *cap.* 1. in 11 *Rich.* 2. *c.* 2, 3, 4. and in the Parliament Roll, Printed by Order of both Houses, *August* 27. 1642. And before both these, in (k) *Glanvil*, who declares it to be Treason, even at the Common Law, *Si quis machinatus fuerit vel aliquid fecerit in* SEDITIONEM REGNI: Agreeable to (l) *Vlpian*, and the (m) *Saxon Laws*, which inform us of *Treasons against the Common-wealth and Kingdom*, (the case of (n) *Cateline* and (o) others) as well as against the King; and to the Statute of 13 *Eliz. c.* 1. which makes it *High Treason for any person to stirre up any Forraigners or strangers with*

(e) *Walsingham Holin. Graf's to Speed, Martyn Fab. Polychro.* in 21 *R.* 2. & 11 *R.* 2. *c.* 3, 4. 21 *R.* 2. *c.* 12.

(f) See the particulars more at large in 21 *R.* 2 *c.* 12. *Grafton, p.* 312 353. *John Trussels, R.* 2. *p.* 11, 12. *Walsingham* and *Holinshed* in 10. & 11 *R.* 2.

(g) See 1 *H.* 4. *c.* 3. and here *p.* 13.

(h) *Speed p* 747

(i) *Hist. p.* 675.

(k) *Lib.* 14. *sect.* 112 *Stanf.* 1 *e* 2 *f.* 1. *b.* and *Crompton's*, Jurisdict. *f.* 73.

(l) Institt. *l. ult. Tit* 8.

(m) *Tit.* 3.

(n) *Cicero Orat.* in *Catil.*

(o) *Liv. hist. l* 23 *sect.* 17.

with force to invade this Realm or Ireland. And if it be no lesse *then high Treason against the King to slay the Chancellour, Treasurer or any of the Judges, or Justices of either Bench, Eyer, Assize, or Oyer and Terminer, being in their places doing their Offices* (though by the Kings command; as is clear by 25 *E.* 3. *c.* 2. and all our *Law Books*;) then much more must it be high Treason against the King and Kingdom, to warre against the highest Court of Parliament, or slay any Member of it, for doing their Offices and executing the Houses just Commands. If bare miss-Councelling the King to the prejudice of the Kingdom, hath so frequently been adjudged *high Treason against the King and Realm in severall Parliaments*, as appears by the forecited Histories of *Gaveston*, the two *Spensers*, *Alexander Nevill*, *De la Pole*, *Tryssilian*, and others; then what is it to misscounsell, and assist him to make an offensive War against his Parliament, Kingdom, people, for to ruine them? certainly this must be high Treason against King and Realm in the superlative degree. If the Parliament and Kingdom be destroyed, or their hearts blood shed, their vitall spirits let out by an unnaturall War against them; the King himself (at least in his royall Capacity as King) and his royall posterity too, must necessarily be unkinged, and overwhelmed in their ruines; but if the Kingdom stand and flourish (for whose Peace and safety Kings themselves ought not onely to *lay down their Crowns, but* * *lives*, as *Christ*, the * *King of Kings* hath resolved, and the *High Priest* too,) though the King should die or perish (as *all* * *Kings ever were* and will be *mortall*) yet their posterity may enjoy the Crown, and reign in honour, in prosperity after their death, which they cannot do if the Kingdom perish. Therefore all those Malignants, Papists, Delinquents, and others, who have most unnaturally taken up arms against the Parliament and Kingdom to dissolve and ruine them, though by the Kings own illegall Commmission or Command, are not onely Arch-traytors to the Parliament and Realm alone, but likewise to the King himself and his Posterity too, in the very judgement of Law; whose blood is shed, whose Crown and Royalty subverted, ruined, in the bloodshed, ruine, destruction of his Parliament, Kingdom, people. As it is in the naturall, so likewise in the politick Body; a mortall wound in any part of the body, kills both body and head; the body naturall or politicke cannot die or miscarry, but the head must do so likewise; therefore this War against the Parliament and Kingdom, must in point of Law and Conscience too, be a War against the King himself the chief politick head and member of them both, from which he cannot legally be severed, and high Treason at least against them both, as the Parliament, the sole Judge of Treasons hath resolved long since in their * *Declaration* of August 18. 1642. in these positive words; *The Lords and Commons do declare, That all such persons as shall, upon any pretence whatsoever, assist his Majesty in this war, with Horse, Arms, Plate, or Money,* ARE TRAYTORS TO HIS MAJESTIE, THE PARLIAMENT AND THE KINGDOM, *and shall be brought to condigne punishment for so high an offence*: which they have since seconded in sundry other *Declarations* and *Impeachments.*

* John 10. 10, 11. 11. & 11. 50 & 18 14.
* Rev 17.14. & 19.16.
* Psal. 86. 5, 7.
* An exact collection, &c. p. 578.

In brief, the Gunpowder plot in 3. *Jacobi* to blow up the *Parliament House*, was then adjudged, resolved by the *Parliament*, * *King* and Judges, to be *high Treason*, not onely against the *King*, but *Parliament* and *Kingdom too*: and to blow up, or all at once the Parliament now, in the Kings absence, is questionlesse High Treason, both against the King, Parliament, and Kingdom. Yea, the Statute of 28. *H.* 8. *c.* 7.

* 3 *Inst. c.* 1. 2, 4, 5 and in his Proclamations for apprehending those Traitors. The proceeding against Traitors, 3 *vol. fol.* p. 1248 to 1257.

c. 7. declares those, *who shall claim the Crown even of right, in any other manner then is limited by vertue and authority of that Act, after the Kings death; with all their Counsellors and abettors, to be deemed and adjudged* HIGH TRAITOURS TO THE REALM, (not the King) *and such their offence to be reputed* HIGH TREASON; and they for it, to *suffer such paines of death and forfeiture of Lands and Goods, as in any cases of high Treason is used*, onely *because it might in common probability ingender a Civil war and Dissentions in the Kingdom, to the destruction of the people and their posterities*; much more then must it be high Treason against the Realm, and those *High Traitours* who now actually wage War against the Parliament, the Kingdom, and destroy the Subjects and their estates in divers places, which they have burned, sacked, ruined. I read in * *Fabian*, that *Eguiran*, chief Councellour to *Philip* the third of *France*, was *judged to death, and hanged on the Gibbet at* Paris, *for Treason against King* Philip and the REALM OF FRANCE, as our Powder Traitors were executed for high Treason against the King and Realm of *England* of late, and *Gaveston* with the *Spensers* heretofore.

* *Par. 7. p. 286.*

By the Stat. of 1 E. 3. c. 1. 5. R. 2. c. 6. 11. R. 2. c. 1. 3. 17 R. 2. c. 8. 21. R 2. c. 2. 4. 20. 3. H. 5. Stat. 2. c. 6. & 1. *Mariæ* c. 6. certain offences are declared, and made *high Treason*, and the committers of them, *Traitours and enemies, not onely, to, and against the King*, but likewise, TO, AND AGAINST THE REALM: and in particular; *the illegall indicting of some Lords to destroy them, as guilty of high Treason, for procuring a Commission in Parliament supposed prejudiciall to the King and his Crown*, in 10 R. 2. c. 1. and the opposing and annulling *of that Commission, and of some Processe, Judgements, Executions, made, given, and affirmed in some of these Parliaments, raising forces, and leavying war against the Parliament, and Members of it to destroy them, were then * adjudged high Treason both against the King and* THE REALM (*though done by the Kings expresse Commission and command:*) The reason is, because the King himself and the whole Realm in judgement of Law, * *are ever legally present in and with his Parliament when they sit*, (as I have already proved) *where ever the Kings person is*; and his royall legall will (of which alone the Law takes notice) is ever presumed to concur with his greatest Counc. ll the Parliament, against whose Priviledges, safety, and protection he neither can nor ought by Law or right to attempt any thing; and if any personall *Commands* or *Commissions* of the King, *under his great Seal*, to do ought against *Magna Charta, the Subjects liberty, safety, property, the Parliaments Priviledges, the Common or Statute Laws of the Realm* (all which, together with the Kings Coronation Oath, and the Prologues of most old Parliaments expresly prohibit the *levying of war, killing, wounding, murthering, imprisoning, disinheriting, robbing*, or plundering of the Subjects, without *legall triall or conviction*, as do the Statutes of 2 R. 2. c. 7. 1 H. 5. c. 6. 1 H. 5. c. 6. which prescribe exemplary punishments against such *Plunderers* and *Robbers*, especially the *Welchmen*;) issue out to any person or persons whatsoever, especially to raise forces or levie war against the Parliament or Subjects, *they are meerly void in Law, and will rather aggravate then extenuate the guilt of those who obey or execute them*: as is clearly resolved, not onely by 42. *Ass. p.* 5. 12. *Brooke* Commissions: 15. 16. *Cooke l.* 5. *f.* 50. 51. *l.* 7. *f.* 36. 37. *l.* 8. *f* 125. to 129. but likewise expresly adjudged and enacted by the Statutes of 15 *E.* 3. *St.* 1. *c.* 1. 3. 42 *E* 3. *c.* 1. 3. 11 R. 2. *c.* 1. *to* 6. 21 *Jac. c.* 3. the Petition of Right, 3 *Caroli.* 28. *E.* 2. Artic. super Chartas *c.* 2. 4 *E.* 3. *c.* 4. 5 *E.* 3. *c.* 2. 25 *E.* 3. *c.* 1. 15. 34 *E.* 3. *c.* 2. and generally by

* See *Walsingh. Holinsh. Fabian, Grafton, Stow, Speed*, in 10. & 21. R. 2. 22 R. 2. c. 11.

* See here *f.* 20 21 22. 2

by all Statutes concerning * Purveyors: by the memorable old Statute of 15 E.3. Stat.1, *If any Minister of the King, or any other person of what condition soever he be, do or come against any point of the great Charter, or other Statutes, or the Laws of the Land, he shall answer to the Parliament, as well as the* SUTE OF THE KING, as at the sute of the partie, AS FAR FORTH WHERE IT WAS DONE BY COMMISSION OR COMMANDMENT OF THE KING, *as of his own authority*: And by that parallel good Lawr corded by * *Fabian*, made in Parliament in the first yeer of King *Henry* the fourth; *That no Lord, nor other person of no degree, should after that day lay for his excuse* (as some then did) *any constraint or coaction of his Prince in executing of any wrong judgement, or other criminous or unlawfull deeds, saying; That for fear they durst not otherwise do; for such excuse after this day* SHALL STAND HIM IN NO STEAD. And in this Parliament, * Hill *was judged to be drawn from the Tower of* London *unto* Tiburne, *and there to be hanged and quartered (which was accordingly executed) onely because he was one of those who secretly murthered the Duke of* Glocester *at* Calice (illegally attainted of Treason in the Parliament of 21.R.2. *without due processe of the Law, by King* Richard *the second his command*, for his good service done in Parliament in 10 & 11. of this King) and likewise the Dukes of *Aumarl, Surrey, Exeter, with other Noble-men, were deprived of their Dukedoms, of most of their Lands, Castles, Honours, for having a finger in this Dukes suffocation and death by King* Richards *instigation and command*, (and had lost their heads too if the common people had been their Judges, *who murmured against King* Henry *for sparing their lives*) as you may read in * *Walsingham* and *Speed*.

* See *Rastals* Abridgment, tit. Purveyors.

* Part 7. p. 376.

* *Fabian, part.* 7. p. 342 375. *Hals* Chron. f. H 4 f. 10 *Grafton*, p. 408 *Walsingham*, Hist. p. 393. 402.

* Hist. p. 402, 403. *Speed* p. 763.

If these then who murthered but one good Peer of the Realm by the Kings speciall command, for his good service done in former Parliaments, after an illegall judgement of high Treason given against him, were thus hanged, quartered, degraded as Traytors by a solemn Judgement in Parliament; how severe a censure may they expect, who without, and before any such conviction or sentence, have taken up offensive Arms to murther and destroy the Parliament it self and chiefe Members of it as Traitors, and caused them or any of them illegally to be proclaimed Traitors, the more colourably to wage War against them? All which I would advise His Majesties Captains, Cavalliers, and ill Counsellors to consider. The rather, because all levying of War either against the King, or against the Kingdom and Parliament, (now made a matter of high Treason on both sides) must and ought to be determined and resolved, which of them is high Treason and which not, and the parties guilty of it, must and ought to be tried, arraigned, judged, and condemned for it, *onely in and by the Parliament*, and *in and by no other Court or Judges*, as is punctually resolved by the severall Statutes of 11 *R.2. c.1.2.3.4.* 21 *R.2. c.2.3.4.12.20.* 8 *H.4. c.10.* and the very words of the Statute of 25 *E.3. c.2.* of *Treasons*, especially being a new case. If then the Parliament are, and must be the onely judges of this question, *Which of the two parties now in Arms are Traitors?* and the *onely Court wherein all must be tried on this point*, they may easily judge who are and must be the Traitors in this case; and those who by the Kings meer personall command and pretence (whom they have treacherously withdrawn from his Parliament) fight now both against Parliament and King in his *legall and regall capacitie*, when the time of triall comes, will be found reall Traytors both to King and Kingdom (what ever their own ignorance, temporizing Lawyers, or hopes of prevailing may now suggest unto them) as the Parliament hath already declared them in sundry Remonstrances. In the Parliament of 15 *E.2.* the two *Spensers* were by a * *speciall Act of Parliament adjudged Traitors, banished, and their lands and goods confiscated, for misconselling this King, and advising him to ride with armed Troops of horse and men into* Glocestershire *to assault the good people there, and to levie war within the Realm, to the destruction of the Church and people, contrary to the form of the great Charter, and breach of the peace of the Realm*: What severe judgement then may those ill Counsellors and Cavalliers deserve, who have actually levied

* *Exilium Hugonis le Despenser*, f. 50 52.

war, not onely against the County of *Glocester*, (which they have pitifully harrowed and spoiled, contrary to all Law, sacking (p) *Cicester* to its utter ruine, and leading away the good people thence captives to *Oxford* in triumph, for the most part barefooted, through dirt and mire, in the cold Winter season, chained together in ropes, more like to Turkish Gally-slaves then English Christian Subjects; onely for this new kinde of supposed Treason and Rebellion, the defence of their Liberties, lives, and goods, against theeving Cavalliers, (which they may defend by *Law*, * *and justifie the killing of all those who shall violently assault them or their houses, to rob them of them*) denying them so much as a draught of cold water to quench their thirst by the way, and keeping off all who would give it to them, many of them being since dead at *Oxford* of famine and more then barbarous usage, but likewise against most Counties and many Towns of *England*, (miserably wasted, sacked, pillaged, and some in cold blood burned by them) and the whole Kingdom, Parliament, yea King himself in his politick Capacitie; and raised an Army of Papists against expresse late Acts of Parliament; who not onely now set up their long exploded Masse openly in *Yorkshire*, *Reading*, and other places, but (which my very soul abhors to think of) have lately in a most impious manner, *Shit upon the English Bible in folio, defaced and burnt many Testaments, and godly English Books*, in *John Hamonds* house (a Bookseller) in *Marleborough*, when they sacked it, in contempt of our Religion, setting the chimney on fire with their excessive flames; and if reports be credible, have since burned divers *English* Bibles, with other good Books, in the publike Market place at *Reading*, under the very *Gallows*, in detestation of our Protestant Faith, whose utter extirpation is their chief designe. Certainly, if these ill Councellers, or murdering Plundering Cavalliers once come to a legall triall, a *Gallows* will be too milde a punishment to expiate such a prodigious *high Treason*, which former ages can hardly parallel, especially if they persevere therein. But of this more hereafter.

(p) See the Relation of the taking of *Cicester*

* *Fitz. Corone.* 192 194 246. 258. 261 330. *Stamford f.* 11, 12, 13. 22 *H.* 7. 39. 24 *H* 8. *c.* 5 *Cooke l.* 5. *f.* 51. 52. 53.

Sixthly, Hence likewise it necessarily follows, that the Houses of Parliament being the Soveraign Power, ought of right to enjoy, and may when they see just cause for the Kingdoms safety and benefit, order the *Militia*, Navy, Ports, Forts, and Ammunition of the Realm, and dispose of them into such persons custodies as they may safely confide in; nominate and elect, both the great Counsellers, publike Officers, and Judges of the Kingdom; of right require, (if not enforce, if wilfully denied) the Kings Assent to all publike Bils of Right and Justice, necessary for the Common-weal and safety of his Subjects, in which the King hath no absolute *Negative* voice; take up defensive Arms to protect their Priviledges, Laws, Liberties, and established Religion, not onely against Malignants and Popish Recusants, but the King himself, if he raise Forces against them, make war upon them, against his Royall Oath and duty, declaring himself an open enemy to his Parliament and kingdom, That they may lawfully in case of present ruine and danger, without the Kings concurrence, when he shall separate himself wilfully from, or set himself against them, (which the ° *Estates of Arragon* held A WICKEDNESSE in their King *Alfonso* the third:) impose taxes on the Subject, and distrain their goods, imprison, confine, secure their persons for the publike safetie, when they deem it absolutely necessary. All which, with other particulars, I shall (God willing) fully prove, by such Demonstrations, Arguments, punctuall Authorities, and undeniable precedents in former ages, as shall, I trust, undeceive the blinded world; and convince, if not satisfie, the greatest Royallists, Papists, Malignants, both in point of Law and Conscience, in the next parts of this Discourse.

° *Non* A COMMITTIS IN TEMPESTIVE DISCEDERE ID *quidem debent.* REGI NEFAS FUISSE; *neque tantum jubenti fidem fecisse Imo esse fidendum* Hist. Rerum A. 11 Coment. p. 662.

Errata and Omissions in some Copies.

Page 15. l. 43. for Lawes read *Courts* p. 40. l. 22. *consents, may be disolv. by their consents.* p. 49. l. 44. dele *and* p. 51. l. 20. Eleventhly, r. *Eighthly.*

Finis Partis Primæ.

THE SOVERAIGNE POVVER OF PARLIAMENTS & KINGDOMES.

OR

Second Part of the *Treachery* and *Disloialty* of *Papists* to their *Soveraignes*.

Wherein the *Parliaments* and *Kingdomes Right* and *Interest in*, and *Power over the* Militia, Ports, Forts, Navy, Ammunition *of the Realme, to dispose of them unto Confiding Officers hands, in these times of danger*; Their *Right* and *Interest* to *nominate* and *Elect all needfull* Commanders, *to exercise the* Militia *for the Kingdomes safety, and defence*: As likewise, to *Recommend and make choise of the* Lord Chancellor, Keeper, Treasurer, Privy Seale, Privie Counsellors, Iudges, and Sheriffes *of the Kingdome, When they see just Cause*: Together with the Parliaments late Assertion; *That the King hath no absolute Negative Voice in passing publicke Bills of Right and Iustice, for the safety, peace, and common benefit of his People, when both Houses deeme them necessary and just*: are fully vindicated and confirmed, by pregnant Reasons and variety of Authorities, for the satisfaction of all *Malignants*, *Papists*, *Royallists*, who unjustly Censure the Parliament proceedings, Claimes and Declarations, in these Particulars.

Iudges 20. 1. 2 8 9 10 11.

Then all the Children of Israel went out, and the Congregation was gathered together, as one man, from Dan even to Beersheba, &c. And all the People arose as one man, saying; We will not any of us goe to his Tent; neither will we any of us turne into his House; But now, this shall be the thing, that we will doe to Gibeah; We will goe up by lot against it. And we will take ten men of an hundred, throughout all the Tribes of Israel; and an hundred of a thousand, and a thousand out of ten thousand, to fetch victuails for the people, that they may doe to Gibeah, according to all the folly that they have wrought in Israel.

Iudges 11. 5. 6. 11.

And it was so when the children of Ammon made warre against Israel, the Elders of Gilead said unto Iephthah; Come, and be our Captaine, that we may fight with the children of Ammon, &c. Then Iephthah went with the Elders of Gilead, and THE PEOPLE MADE HIM HEAD AND CAPTAINE OVER THEM.

2 Sam. 18. 3. 4

And the King said unto the people, WHAT SEEMETH YOV BEST, I WILL DOE.

Jer. 38. 4 5.

Then Zedechiah the King said unto the Princes; Behold, he is in your hand; FOR THE KING IS NOT HE THAT CAN DOE ANY THING AGAINST YOV.

It is this 28th. day of *March*, 1643. Ordered by the Committee of the House of Commons in Parliament concerning Printing, that this Booke intituled, *The Soveraigne power of Parliaments and Kingdomes*, be forthwith Printed by *Michael Sparke*, Senior.

John White.

Printed at London by *I. D.* for *Michael Sparke, Senior.* 1643.

To The Reader.

Courteous Reader, our usuall Proverbe concerning *Science*; *That it hath no enemies but Ignorants*; is in a great measure now verified concerning *the Proceedings of this present Parliament*; that few or none malignantly clamor against them, but such who are in a great degree *Ignorant of our Parliaments just Soveraigne Authority*; though many of them in their own high-towring conceits deeme themselves almost *Omniscients*, and wiser than *an hundred Parliaments* compacted into one. Among these *Anti-parliamentall Momusses*, there are none more outragiously violent (*Papists* onely excepted) in *exorbitant Discourses*, and *violent Invectives*, against this *Parliaments Soveraigne power*, *Priviledges*, *Orders*, *Remonstrances*, *Resolutions*; then a Company of *seemingly Scient*, though *really* * *inscient*, selfe-conceited *Court-Doctors*, *Priests*, and *Lawyers*; who have so long studied the *Art of flattery*, that they have quite forgot the very *Rudiments* of *Divinity*, *Law*, *Policy*, and found out such a *Divine*, *Legall*, unlimited *absolute royall Prerogative* in the *King*; and such a most *despicable Impotencie*, *Inanity*, yea *Nullity* in *Parliaments*, without his personall presence and concurrence with them; as was never heard of but in *Utopia*, if there; and may justly challenge a *Speciall Scene* in the next Edition of *Ignoramus*.

* *Doctum genus indoctissimorum Hominum, vix ad Doroberniam usque docti.* Erasmus.

What God himselfe long since complained off; * *My people are destroyed for lacke of knowledge*; may now be as truly averred of the *people of England*, (seduced by these *blinde Guides*, or over-reached by *Iesuitically Policies*,) they are destroyed for want of knowledge, even of the *Kings just circumscribed Prerogative*; of the *Parliaments Supreame unlimited Authority*, and *Unquestionable Priviledges*; of their *owne Hæreditary Liberties*, and *Native Rights*: of the *Law of God*, of *Nature*, of the *Realme* in the *points now controverted* betweene *King* and *Parliament*; of the Machivilian deepe Plots of *Priests* and *Papists* long since contrived, and their *Confederacies* with *forraign States* (now visibly appearing) by *secret Practises*, or open *violence*, to set up *Popery* and *Tyranny*, throughout our *Realmes* at once; and by *false pretences*, mixt with *deceitfull Protestations*, to make our selves the *unhappie* Instruments of our *Kingdomes slavery*, our Lawes and Religions *utter ruine*. The *Ignorance*, or *Inadvertency* of these particulars, coupled with a *Popish blinde Obedience to all royall Commands* though never so illegall; out of an *implicit Faith*, *that what ever the King Commands* (though against the expresse Lawes of God and the Realme and Resolutions of both Houses of Parliament) *may and ought to be obeyed without contradiction or resistance*; as some new *Doctors* teach: hath induced not

* Hosea 4. 1, 6.

onely many poore Ignorant *English* and *Welsh* silly soules, but likewise sundry *Nobles and Gentlemen of quality*, very unworthily to engage themselves in a most unnaturall destructive warre, against the *High Court of Parliament*, and their * *Deerest Native Country*, to their eternall infamies, and (which is almost a miracle to consider) to joyne with the Iesuiticall *Popish* Party now in Armes both in *England* and *Ireland*, and some say under the *Popes owne Standard*) not onely to subvert their owne Lawes and Liberties, but the very *Protestant Religion* here establisht, which they professe they fight for. In this deplorable warre many thousands have beene already destroyed, and the whole Kingdome almost made a desolate wilderness, or like to be so ere this Spring passe over; and all onely *for want of knowledge*, in the premisses, which would have prevented all those *Miseries* and *Distractions* under which we now languish almost to desperation, and death it selfe.

To dissipate these blacke Clouds of *Egyptian Darkenesse*, spread over all the Land, distilling downe upon it in *showres of Blood* insteed of *Aprill drops* of raine, (and I pray God they make not all our *May-flowers* of a *Sanguine dye*,) I have, (after a long *sad Contemplation*, of my deare *Countries bloody Tragedies*) at the *speciall Request* of some *Members of Parliament*, (according to my *weake Ability*, and *few Houres vacancy* from other distractin Imployments) hastily compiled this undigested ensuing *Fragment*, with the preceding *Branch* thereof, and by *their Authority*, published that in *dismembred Parts*, which by reason of its difficultie to the *Printers*, & urgencie of present publike affaires now in agitation, I was disabled to put forth (together with the *remaining member*) in one *intire Body*, as I desired. Be pleased therefore kindly to accept that in *Fractions*, for the present, which time onely must, and (God-willing) speedily shall compleat; which by Gods blessing on it, may prove a likely meanes to *comprimise* our *present Differences*, and *re-establish* our *much-desired-Peace*; together with our *Religion*, *Lawes*, *Liberties* in their Native purity and glory; (the very *Crownes*, and *Garlands* of our *Peace*;) Peace accompained which *Slavery* and *Popery*, both which now menace Us,) being *worse* then the *worst of Warres*; and an *honourable* death in the *field* fighting against them, better by farre then a *disconsolate sordid slavish life*, or a *wounded oppressed Conscience*, (though in a royall *Pallace*, under them. From such a disadvantageous, enslaving, enthralling, unwelcome *Peace*, *Good Lord Deliver Us.*

All I shall adde, is but this request; *A Charitable Construction*, of this *meane Service* for my *Countries Liberty*, *Tranquility*, *Felicity*: and if thou, or the *Republicke* reap any benefit thereby, let *God onely* enjoy thy *Prayses*, the *Author* thy *Prayers*. And because I have walked in an untrodden path, in all the Parts of this *Discourse*.

— *Si quid novisti rectius istis*
Candidus imperti; si non, his utere mecum;

* *Cari sunt parentes, cari liberi, propinqui, familiares; sed omnes omnium caritates Patria una complexa est; pro qua quis bonus dubitet mortem oppetere, si ei sit profuturus? Quæ est detestabilis immanitas, quibus artibus omnes illæ Patriam & in ea fundatus delenda occupati & sunt, & fuerunt*, Cicero de Offic. lib. 1. p. 614.

THE SOVERAIGNE POWER OF PARLIAMENTS AND KINGDOMES.

HAVING answered in the former part, the Grand Objection against the Parliaments Soveraigne Power, I shall in this proceed to the particular crimes now objected against it.

Object. 2.

The second grand complaint of his (*a*) Majesty and others, against the Parliament is, That both Houses by a meere *Ordinance*, not onely without, but against the Kings assent, have unjustly usurped the power of the *Militia*, a chiefe flower of the Crowne, and in pursuit thereof, not onely appointed Lieutenants, and other Officers, to muster the Trained Bands in each County; but likewise seised the Ports, Forts, Navy, and Ammunition of the King, together with his Revenues; to regaine all which, his Majesty hath beene necessitated to raise an Army, and proceed against them in a Martiall way.

(*a*) See all his Majesties Declarations and Proclamations concerning the *Militia*, Commission of *Array*, *Hull*, The Complaint against the Parliament.

Answ.

This unhappy difference about the *Militia*, being (next to the Introduction of Popery) the spring from whence our uncivill warres have issued, and the full discussion thereof, the most probable meanes to put a speedy period to them: I shall with as much impartiality and perspicuity, as I may, like a faithfull Advocate to my Country, and cordiall indifferent well-wisher both to King and Parliament, truely state and debate this controversie, beginning with the occasions which first set it on foote.

In the late happily composed warres betweene *England* and *Scotland*, (occasioned by the Prelates) divers Counties of *England* were much oppressed by their Lieutenants with illegall Levies of Souldiers, Coat and Conduct money, taking away the Trained Bands Armes against their consents, and the like, for which many complaints were put up against them to this Parliament; many of them voted Delin-

quents, unfit for such a trust, and all their Commissions resolved to be against Law; so that the *Militia* of the Realme lay quite unsetled. (*b*) Not long after, our Northerne Army against the *Scots*, the pacification being concluded, was by some ill instruments laboured to march up to *London*, to over-awe or dissolve the Parliament, and quash the Bill against the Bishops sitting in the House: Which plot being discovered, and the chiefe Actors in it flying over-sea ere it tooke effect, made the Parliament jealous and fearefull of great dangers, if the Command of the Forces of the kingdome then vacant, should be continued in ill-affected, or untrusty Officers hands; which distrustes and feares of theirs were much augmented by the suddaine *generall Rebellion of the Papists in Ireland*, who (*c*) *pretended his Majesties and the Queens Commissions for their warrant*; by his Majesties unexpected accusation of, and personall comming (with an extraordinary Guard) into the house of Commons to demand the five Members of it, whom he charged with high Treason; by his entertaining of divers Captaines, as a supernumerary Guard at *White-hall*; and denying a Guard to the House; by the Earle of *New-castles* attempt to seize upon *Hull*, and the *Magazine* there, by command; by the Lord *Digbies* advice to the King, to retire from the Parliament, to some place of strength; by the reports of foraine Forces prepared for *England*, through the solicitation of those fugitives, who had a finger in the former plots; and by the Queenes departure into the *Netherlands*, to raise a party there. Hereupon the Parliament for their owne and the kingdomes better security (in the midst of so many feares and dangers threatned to them) importuned his Majesty to settle the then unsetled *Militia* of the kingdome, by a Bill, for a convenient time, and seeing the King himselfe could not personally execute this great trust but by under-officers, by the same Bill, to intrust such persons of quality and sincerity (nominated by both Houses, and approved by the King) as both his Majesty, Parliament, and Kingdome might securely confide in, to exercise the *Militia*, and keepe the Forts, Magazine, and Ammunition of the kingdome under him onely (as before) till these blacke clouds were dissipated. Which his Majesty refusing to grant in so ample manner as was thought meete for their security; by a Vote of both Houses (when they were full) the *Militia* was committed to divers Noble Lords and others; many of whom have since laid downe their Commissions, which they at first accepted from the Houses, and instead thereof, beene active instruments in executing the Commission of *Array*; (issued out by his Majesty, in direct opposition to the *Militia*) which the Houses by two severall Declarations have since Voted and manifested, *To be against the Law, and Liberty of the Subjects*. And to prevent the arrivals of Foraine Forces, and a civill warre in the bowels of the kingdome, they first put the *Tower* of *London*, by the Kings consent, into a confiding hand, trusted by either party; then they secured *Hull* and the Magazine there; after this, when they were informed his Majesty had seised *Newcastle*, and was raising an Army, they possessed themselves of the *Navy*, *Portsmouth*, with other Ports and Forts; and sequestred his Revenues; (the Nerves with which he should support this unnaturall civill warre) which by degrees hath now overspread the whole kingdome, and threatens inevitable desolation to it, if not speedily determined, by an honourable safe accommodation.

(*b*) See the Parliaments Remõstrances, & Declarations touching all these particulars, specially Nov. 2. 1642

(*c*) See Dr. *Jones* his Booke of Examinations, Printed by the Houses Order.

This being the true State and progresse of the *Militia*, the sole question will be; Whether all the former circumstances of danger, and his Majesties refusall to settle the *Militia*

Militia, Ports, &c. by an act; in such trusty hands, as both King and Parliament might confide in; the Parliament by an Ordinance of both Houses onely, without the King, refusing to joyne with them, and wilfully absenting himselfe from the Parliament, might not in this case of necessity and extremity, (for their owne, and the kingdomes safety) lawfully settle and seise the premises, for the present, as they have done? and whether this be a just ground for the King to beginne or continue a desperate civill warre against his Subjects? For my part, I shall not undertake to justifie all passages on either side, in the managing of this businesse; it may be there have beene errors at least in both parties: which to reconcile, as neer as possible, I shall premise such propositions on either hand, as neither can in justice deny.

On the Kings part it is irrefragable:

First, That the Kings of *England*, (yea generally all Kings where ever) have usually enjoyed the chiefe Ministeriall Ordering of the *Militia* (in such sort as it hath beene setled by their Parliaments) for the defence of the kingdome by Land and Sea, against Foraine Enemies: A truth acknowledged, not onely by Judge *Crooke*, and *Hutton*, in their Arguments against Ship-money, but by the Parliament it selfe in their two *Declarations against the Commission of Array*; the (*d*) *Scripture* it selfe in sundry places, together with (*e*) *Aristotle*, (*f*) *Polybius*, (*g*) *Cicero*, (*h*) *Jacobus Valdesius*, the (*i*) *Histories* of all Kingdomes attesting, that the originall cause of erecting Kings was, and one principall part of their Royall Office is, to be their *Kingdomes Generals* in their Warres, and fight their Battailes for them; the Kings of *Sparta*, and others, yea, the ancient *Roman* Emperours, being (*k*) nothing but their Generalls to manage their Warres, and oft Elected Emperours by the *Roman* Legions, for their skill in Martiall affaires.

Secondly, That it is not onely (*l*) *expedient, but in some respects necessary*, that this chiefe ministeriall command of the *Militia*, Forts, and Navy, should constantly continue in the Crown; unlesse it be in some speciall cases; as when the King is an Infant, or unable, or unwilling to discharge this trust; or intends to imploy this power against his Subjects to infringe their Liberties, and erect a *Tyranny* instead of a *Royalty* over them: And that it is not meete nor honourable to deprive his Majesty of this part of his Soveraignty at this present, but onely to recommend unto him such persons of trust and quality to manage the *Militia*, Forts, and Navy under him, in these times of warre and danger, in whose fidelity the Parliament and whole kingdome may confide, and so be freed from their just jealousies, feares, and dangers. Thus farre the Houses have already condescended; and upon these indifferent termes (as they conceive them) have oft (*m*) profered to resigne up all the Ports, Forts, Ships, Magazines, and Ammunition they have seised on, into his Majesties hands, they never desiring, nor intending to devest him of this his Soveraigne power over them.

On the Parliaments part, it must necessarily be granted to them by the King:

First, That the whole power which either his Majesty hath or claimes, or his Predecessors enjoyed over the *Militia*, *Forts*, *Navy*, *Ammunition*, and *Revenues* of the *Crowne*; was originally derived and granted to his Ancestors, by the Parliaments and kingdomes free consents, * *And that onely upon trust and confidence for their protection, benefit, security, as the premises abundantly evidence.*

Secondly, That the King hath no other power over the *Militia*, to Array, Arme or

(*d*) 1 Sam. 8. 11 12. 20. c. 13. 2. to 17. 2 Sam. 8. c. 11. 1. c. 12. 7 9 30. c. 18. 1, 2.
(*e*) *Poli. l.* 3. & 5
(*f*) *Hist. l.* 6.
(*g*) *De Offic. l.* 2.
(*h*) *De Dignitate Regum Hispaniæ c.* 18.
(*i*) See *Munsters Cosmo. l.* 2. *c.* 18, 19, 20. *l.* 4. *c.* 59.
(*k*) See *Grimstons Impe. Hist. Eutropi. Zonar. Volater. Polyb. hist. l.* 6.
(*l*) See the Bils for Tonnage & Poundage, and Subsidies of Temporalty & Clergy.
(*m*) See their Petitions to this effect, and their Remonstrance, Nov. 2. 1642.

* See the Remonstrance of the Lords and Commons Novemb. 2. 1642.

or Muſter his Subjects in any caſe, then onely in ſuch manner as the Parliament by ſpeciall Acts hath preſcribed, as Sir *Edward Cooke* in his *Inſtitutes* on *Magna Charta*, *f.*528, 529. this Parliament in the two Declarations againſt the Commiſſion of *Array*; and Judge *Crooke* and *Hutton* in their Arguments againſt *Ship-money*, have largely proved.

Thirdly, That in ancient times, in and before *Edward* the *Confeſſors* dayes, and ſince, the *Heretoches* (or Lord Lieutenants of every Province and Country) *who had the chiefe power of the Militia*, and commanded them as their *Generalls in the Warres*, *were elected by the Common Councell of the Kingdome* (the Parliament) *throughout all Provinces of the Realme*, *and in every County* (*by the Freeholders*) *in a full Folkmote*, or *County Court*; as appeares by the expreſſe words of King *Edwards* owne Lawes, Recorded in (*n*) Mr. *Lambard*; Recited and affirmed by Sir *Edward Cooke* in his *Inſtitutes* on *Magna Charta*, *f.*174, 175.

(*n*) *Archaion p.* 135.

Fourthly, That the Sheriffe of every County (who both * then had, and now hath *full* power to raiſe the *Militia*, and Forces of the County upon any occaſion, to apprehend Delinquents, execute *Proces of the Law*, *ſuppreſſe Riots*, *and preſerve the peace of the County*) were not elected by the King, but by the Freeholders of each County, as the (*o*) *Conſervators* of the Peace, and all great Officers of truſt, then were, and the (*p*) *Coroners*, *Foreſters*, and other Officers, then and yet are elected by the Free-holders, (as well as (*q*) *Knights*, *Citizens*, *and Burgeſſes of Parliament*) even at this very day; This is evident by the expreſſe words of King *Edward the Confeſſors* Lawes, *Cap. de Heretochiis* (Recorded by Mr. *Lambard*, *Archaion*, *p.* 135. and Sir * *Edward Cooke*) atteſting; That the Sheriffes of every County were choſen by the Free-holders in the *County Court*: And by the Articles of deprivation againſt *Richard* the ſecond, charging this upon him as an illegall encroachment, * *That he put out divers Sheriffes lawfully* ELECTED (to wit, by the Freeholders) *and put in their roomes divers of his owne Minions*, *ſubverting the Law*, *contrary to his Oath and Honour.* (*r*) In the yeare 1261. The Barons, by vertue of an Ordinance of Parliament made at *Oxford*, in the 45. yeare of *Henry* the third, admitted and made Sheriffes of divers *Counties in England*, *and named them Guardians and Keepers of thoſe Counties*, *and diſcharged them whom the King had before admitted.* *After which*, *great tumults and ſeditions aroſe throughout the Counties of England about the Sheriffes*; *for the* * *King making new Sheriffes in every County*, *and removing with regall indignation*, *thoſe to whom the cuſtody of the Counties was committed by the Barons and Commons of the Land*; *the inhabitants of the Counties animated with the aſſiſtance*, *and ayded with the Counſell of ſome great men of the Realme*, *by whom they were inſtructed*; *with great ſagacity*, *Novos repulêre viriliter Vicecomites*, *manfully repulſed the new Sheriffes*; *Neither would they anſwer*, *regard*, *or obey them in any thing.* *Whereat the King being grievouſly troubled in minde*, *to gaine the peoples devotion and fidelity*, *directed his Letters to all the Inhabitants of the ſeverall Counties of England*, *moving to piety and tending to regaine the Subjects Love.* Whereupon, great diſcord increaſed betweene the King and his Barons; who comming to *London* with great Forces, the King finding himſelfe too weake, ended the matter for the preſent with a fained Accommodation, which ſoone after was infringed by him; and ſo, *Conquievit tandem per internuncios ipſa perturbatio*, SUB SPE PACIS *reformandæ*, *ſine ſtrepitu guerræ*, *quorundum Procerum ad hoc electorum conſiderationibus*, *parte utraque concorditer inclinata.* *Sicque Baronum omnis labor*, *atque omne ſtudium præcogitatum diu*, QUORUNDAM

(*o*) *Cooke Ibid. p.*558.559.

(*p*) *Cooke Ibid. No. Nat. Bre.* 163. 164. *Regiſter*, *part.* 1. 177. 178. 28 *E.* 3. *c.* 6. *Stamford l.* 1. *f.*51.

(*q*) 7. *H.*4. *c.* 15. 8. *H.*6. *c.*7

(*) *Inſtitutes on Magna Charta f.* 174. 175.

(*) *Grafton p.* 401.

(*r*) *Matth. Weſtm. Anno.* 1261. *p.* 310. 311. *Fabian. part.* 7. *p.* 30. 71. *Grafton. p.* 137. *Speed. p.*636.

(*) *Matt. Weſt. hiſt Ibid.*

DAM (*ut putabatur*) ASTUTIA INTERMIXTA *caſſatum eſt ad hoc tempus, & emarcuit; quia ſemper nocuit differre paratis*; writes *Matthew Weſtminſter*. Notwithſtanding theſe conteſts, the people ſtill enjoyed the right of electing Sheriffes, which is evident by the Statute of *Articuli ſuper Chartas*, in the 28. yeare of King *Edward* the 1. ch. 8. *The King graunteth to the people* (not by way of grace but of Right) *that they ſhall have election of their Sheriffe* IN EVERY SHIRE (*where the Shrevalty is not of Fee*) IF THEY LIST, And ch. 13. *For as much as the King hath granted the election of Sheriffes to the* COMMONS *of the Shire, the King will, that* THEY SHALL CHUSE *ſuch Sheriffes, that ſhall not charge them &c.* And Sir *Edward Cooke* in his Commentary on *Magna Charta*, f. 174, 175. 558. 559. 566. proves at large, the right of electing Sheriffes, to be antiently, of late, (and at this day in many places) in the Freeholders and people, as in *London, Yorke, Briſtoll, Glocester, Norwich*, in all great Cities which are Counties, & in *Middleſex*. Seeing then the Parliament and Free-holders, in ancient times had a juſt right to elect their Generals, Captaines, Sheriffes, (who had the ſole power of the *Militia*, and Counties in their hands next under the King himſelfe,) and there is no negative Law in being (that I can find) to exclude them from this power; I humbly conceive, that their ſetling the *Militia* by an Ordinance of both Houſes, and electing of Commanders, Lieutenants, Captaines in each County to execute it, and defend the Counties from plundering and deſtruction, without his Majeſties conſent (eſpecially after his refuſall to ſettle it by an Act) can be no incroachment at all upon his Prerogative Royall, but onely a reviving and exerciſing of the old undoubted rightfull power enjoyed by their Predeceſſors, now neceſſary to be reſumed by them (in theſe times of feare and danger) for the kingdomes ſafety.

Fifthly, The Mayors, Bayliffes, Sheriffes, chiefe Officers of Cities and Townes corporate throughout the Realme, (who under the King have the principall command of thoſe Cities, Townes, Ports, and in many places of the *Militia*, and Trained Bands within them;) are alwayes choſen by the Corporations and Freemen, not the King, without any derogation to, or uſurpation on his Prerogative. Why then may not thoſe Corporations, (yea each County too by the like reaſon)* and the Parliament, which repreſents them and the whole Kingdome, without any prejudice or diſhonour to his Majeſties Authority, by an Ordinance of both Houſes of Parliament, without the King, diſpoſe of the *Militia*, and theſe Military Officers, for the defence of thoſe Corporations, and the Realme too, now, in times of ſuch apparent danger?

Sixthly, all *Military Affaires of the kingdome heretofore, have uſually, even of right, (for their originall determining, counſelling, and diſpoſing part) beene Ordered by the Parliament; the executive, or miniſteriall part onely, by the King; and ſo hath beene the uſe in moſt other kingdomes: To inſtance in particulars.

First, the denouncing of warre againſt forraine enemies, hath been uſually concluded and reſolved on by the Parliament, before it was proclaimed by the King: as our Records of Parliament, and Hiſtories of warres in the *Holy-Land, France, Scotland, Ireland*, abundantly evidence. (*f*) King *Henry* the fifth by the adviſe of his Prelates, Lords, & *Commons in Parliament, and at their encitement, twice denounced and undertooke his victorious warre againſt France, to which Crowne* he then laid claime, for which and they granted him Subſidies: King (*t*) *Edward* the 1. in the 21 yeare of his reigne; calling

* See *Cookes* Inſtitutes on *Magna Charta f.* 558.

(*f*) *Speeds Hiſt. p.* 785. to 790. See *Walſingham Fabian, Holinſhead, Hall, Stow, Grafton*, in his life. *Anno* 1. & 5.

(*t*) *Walſingham Hiſt. Angl. An.* 1295. *p.* 25. See *Holinſhed, Speed, p.* 653. *Grafton, Fabian*

calling a Parliament at *London*, *de Concilio Prælatorum & Procerum*, &c. by the adviſe of his Prelates, Lords and Parliament, denounced war againſt the King of *France*: to recover his right and lands there ſeiſed. Which to effect both the Clergy and Laity granted him large Subſidies. In the (*u*) fifth yeare of King *Edward* the third, the warre againſt *Scotland* was *concluded and reſolved on, in and by the Parliament; all the Nobles and Commons of England telling the King, they would gladly and willingly aſſiſt and goe with him in that expedition*, which they vigorouſly proſecuted: Before this, *Anno* 1227. *A peace (as well as warre) was concluded with the Scots in and by a Parliament at Northampton.* (*x*) *Anno* 1242. King *Henry* the third ſummoning a Parliament, *and demanding ayd of his Subjects to aſſiſt him in his warre againſt the King of France to recover his rights there, they gave him a reſolute anſwer, that they would grant him no ayde, and that he ſhould make no warre with France till the truce were expired*: which *Matthew Paris* thus further expreſſeth: *The Nobles anſwered him with great bitterneſſe of heart; that hee had conceived this warre and voyage into France without their adviſe*: *Et talia effrons impudenter poſtularat, exagitans & depauperans fideles ſuos tam frequenter, trahens exactiones in conſequentiam quaſi à ſervis ultimæ conditionis, & tantam pecuniam toties extorſit inutiliter diſpenſandam. Contradixerunt igitur Regi in faciem, nolentes amplius ſic pecunia ſua fruſtratorie ſpoliari.* The King hereupon put them off till the next day (*Romanorum uſus verſutis fallaciis*) and then they ſhould heare his minde concerning this and other matters. The next day he calls them one by one into his Privie Chamber, *now one, then another, like a Prieſt calling penitents to confeſſion*; and thus thoſe whom hee could not altogether overcome, weakned by being every one apart, hee endeavoured more cunningly to enervate with his words; and demanding a pecuniary ayd of them he ſaid; *See what this Abbot hath granted me towards my ayd; behold what another hath ſubſcribed, producing a fayned roll, that ſuch and ſuch an Abbot or Peere had ſubſcribed ſuch a ſumme, when in truth not one of them had conſented to it, neither came it into their thoughts.* The King therefore with ſuch falſe copies, and enſnaring words cunningly inveagled many: *Notwithſtanding moſt ſtood out, and would by no meanes recede from the common anſwer, which they had ſworne not to recede from under paine of an Anathema.* To whom the King anſwered in anger, *Shall I be perjur'd? I have ſworne with an inviolable oath, that paſſing over Sea, I will with a ſtretched out arme demand my rights of the King of France, which I cannot doe without ſtore of treaſure, which muſt proceed from your liberality, elſe I can by no meanes doe it.* Neither yet with theſe, or other words could he entrap any, albeit, he called every man ſingle to conferre with. After this, he againe called others which were more familiar with him, and ſo talking to them ſaid, *What a pernitious example give you to others? you who are Earles, Barons, and valiant Souldiers, ought not to tremble as others, to wit, Prelates of the Church doe. You ought to be more covetous to demaund the Kings rights, and valiantly to fight againſt thoſe who wrong me, &c. with what face then can you relinquiſh me poore and deſolate now, being your Lord, in ſuch a weighty buſineſſe which concernes the Common-wealth, when I am bound by promiſes to paſſe the Seas, which I ratified with an oath?* Which when it came to the knowledge of all, they anſwered:

We admire beyond all that can be ſpoken, into what bottomleſſe pit the innumerable ſummes of money are ſunke, which thou Lord King haſt cunningly gained, by divers wardſhips of great men, by various eſcheates, frequent extortions, as well from Churches voyd of a Paſtor, as from the lands of Noblemen, free granted Donatives, engendring amazement in the hearts of th

(*u*) *Grafton, p.* 227. 222, 223.

(*x*) *Matth. Paris, Anno.* 1240. *p.* 561, 562, 563.

he bearers, all which have never brought ſo much as the leaſt increaſe to the kingdome. Moreover all the Nobles of England doe overmuch admire, QUOD SINE EORVM CONSILIO ET CONSENSV, *that without their counſell or conſent you have undertaken ſo difficult and perilous a buſineſſe, giving credit to thoſe who want faith, and contemning the favour of thy naturall Subjects, expoſeſt thy ſelfe to caſes of ſo doubtfull fortune: thou diſhoneſtly and impudently, not with unjuſt perill of thy ſoule, and wounding of thy fame breakeſt the Articles of the truce betweene the King of France and thee, which thou haſt ſworne upon thy ſoule indiſſolubly and unviolably to keepe for three yeares ſpace, &c. The King hearing theſe things, was exceeding angry, ſwearing by all the Saints, that he would be revoked by no terrour, nor perſwaded by any circumſtances of words, to retard his begun purpoſe, and taking ſhip on quindena Paſchæ, would undauntedly try the fortune of warre in forraine parts.* And ſo the Parliament diſſolving in diſcontent and ſecret heart-burning on both ſides, the Lords and Barons for a perpetuall memory of their heroicke anſwer returned to the King, ſet it downe in a notable *Remonſtrance* (too large to tranſcribe) which you may reade in * *Matthew Paris.* After this in the yeare 1248. this * King ſummoned a generall Parliament at *London,* wherein hee demanded an ayde from his Lords and Commons to recover his right in *France*; who inſtead of granting it, informed him very roundly and fully of his unkingly and baſe oppreſſions both of his Subjects and ſtrangers, to his owne and the kingdomes diſhonour, and of his tyranny and rapines: At which the King being confounded and aſhamed in himſelfe, promiſed a ſerious and ſpeedy reformation; which becauſe they thought to be but feigned, he anſwered they ſhould ſhortly ſee it; whereupon they replyed, they would patiently expect it till 15. dayes after Saint *John* Baptiſt, adjourning the Houſe till then. But the King ſeduced, hardned and much exaſperated by his bad Counſellers and Courtiers, giving then a very high diſpleaſing anſwer to their demands; they all unanimouſly anſwered, that they *would no more unprofitably impoveriſh themſelves to enrich and ſtrengthen the King and Kingdomes enemies; and that he had precipitately and indiſcreetly, and* WITHOVT THEIR CONSENT *haſtned into Poictiers and Gaſcoygne, and engaged himſelfe in that warre; whence he returned ingloriouſly with loſſe of his honour and treaſure, to his great reproach.* And ſo this Parliament diſſolving with diſcontent, the King grew very angry with his *ill Counſellors, for putting him upon theſe courſes which loſt the hearts of his Nobles and people:* who to pacifie his anger and ſupply his wants, adviſed him to ſell all his Plate, Utenſils and Jewels to the Londoners, and then to reſume and ſeiſe them againe as belonging to the Crowne.

* Pa. 562. 563.
* *Matthew Paris, An.* 1248. p. 718, 719. 725, 726, &c.

(y) *Anno* 1256. The ſame King *Henry* ſummoned a Parliament to aſſiſt him in his warres in *Apulia*; but *becauſe he had taken upon him that warre* WITHOVT HIS BARONS AND PARLIAMENTS CONSENT *they and his* own brother, Richard Earle of Cornewall, *refuſed to grant or lend him any ayde.* And * *becauſe all the Barons and Commons were not ſummoned to this Parliament, as they ought to be, according to the tenor of Magna Charta, they refuſed to doe any thing, or grant any ayd without the reſt of the Peeres were preſent*; and ſo returned home diſcontented. After this, (z) *Anno* 1258. this King ſummoning a Parliament at *London,* demaunded ayde of them towards his warres in *Apulia*; to which the Parliament gave this reſolute anſwer, that *they could no wayes ſupply him in this caſe without their owne undoing: And if he had unadviſedly, and unſeemingly gotten from the Pope the Kingdome of Apulia for the uſe of his ſonne*

(y) *Matth. Paris, An.* 1256.

* Note.

(z) *Matth. Paris, An.* 1258. p. 933, 934, 935.

Edward

Edward, *he ſhould impute it to his owne ſimplicity, and that he had* PRESVMED VNCIRCVMSPECTLY WITHOVT THE CONSENT OF HIS NOBLES TO VNDERTAKE THIS WARRE, *as a contemner of deliberation and prudence, which is wont to forecaſt the end of things; therefore he ſhould bring it to what iſſue he beſt could, and ſhould take example from his brother* Richard, *who refuſed the Empire tendred to him, &c.* In the ſecond yeare of (*a*) *King Edward the ſecond*, hee conſented to this Act of Parliament, *That he would begin no warre without common conſent in Parliament, which he then confirmed with an oath.* So (*b*) *Anno* 25. *Edward* 1. The Lords and Commons utterly refuſed to goe with the King to his warres in *Flanders*, though they were ſummoned to doe it; *becauſe this warre was proclaymed without their conſents and good likings*; and they *were not bound by their Tenures to goe unto it; petitioning the King to deſiſt from this warre*; and at laſt cauſed the King in Parliament to releaſe theſe ſervices. And (*c*) *Anno* 1205. The Lords and Commons for this very reaſon, refuſed to goe with King *John* to his warres in *France* to recover his inheritance there. * In the ſixt yeare of King *Richard* the ſecond, in a Parliament holden at *London*, it was for many dayes together debated, whether the Biſhop of *Norwich* (*Henry Spenſer*) *whom the Pope had made Generall of his forces againſt the Schiſmaticks of Flanders, giving great indulgences to thoſe who ſhould aſſiſt him in perſon or with monies in this warre) ſhould undertake that warre or no? and after much oppoſition of the Captaines of the kingdome, alleadging, that it was not ſafe to commit the people of the King and kingdome to an unexpert Prieſt; it was at laſt reſolved in Parliament (through the conſtancy and valour of the Knights and Commons) that he ſhould undertake this warre, and goe Generall of the Army:* Which office he valiantly managed with good ſucceſſe; being a better *Souldier* then *Preacher*; And the ſame yeare in *another* * *Parliament at London*; *it was decreed* BY THE PARLIAMENT, *that becauſe the Scots had broken their faith with the Engliſh, faith ſhou'd be broken with them. (Frangenti fidem, fides frangatur eidem:) And that a ſelect power ſhould be ſent into Scotland out of England, (to wit, a thouſand Lances, and* 2000. *Archers) to curbe their attempts, under the conduct of the Lord Thomas of Woodſtocke: which the Scots* being informed of, were greatly afraid, and in the end of the Parliament ſent humble ſupplicants to it, *to treat with them about a peace or truce, which they deſired. But the Engliſh having had ſuch frequent experience of their falſhood, would neither treat nor compound with them; but reviling their meſſengers, commanded them to returne home, wiſhing them to defend their heads and rights as well as they could. Who returning, the Northerne Lords undertooke the defence of their Country, untill Thomas of Woodſtocke ſhould be prepared to ayd them with greater Forces.* Loe here both Generalls, Armies, Warres appointed by the Parliament, and Subſidies likewiſe granted to ſupply them; and the making of a peace or truce referred to them, it being agreed in a former Treaty; *that if any dammage or injury ſhould bee done by either Nation one to another, ſome ſpeciall Committees ſhould be ſent to the Parliament of both kingdomes every yeare, who ſhould publikly relate the injuries ſuſteyned, and receive amends according to the dammage ſuffered, by the judgement of the Lords.*

In the Printed Statutes of 18. *Ed.* 3. Parliament 2. and in our (*d*) *Hiſtorians* too, (and I find this preamble, recited almoſt *verbatim*, the next Parliament the ſame yeare, *chap.* 1.) *It is to be remembred, that at the Parliament holden at* Weſtminſter, *the munday next after the Vtas of the Holy Trinity, in the Reigne of our Soveraigne Lord the King that now is, of* England *the* 18. *and of* France *the* 5. *many things were ſhewed in full Parliament*

(*a*) *Walſingham An.* 1311. *Hiſt. Angl. p.* 71.
(*b*) *Walſingham Hiſt. Angl. p.* 37 38, *&c. Ypodig. Neuſtriæ. Anno* 1297. *p.* 83. to 87.
(*c*) *Matth. Paris, Annos* 1205. *p.* 204.
*. *Walſingham, Hiſt. p.* 319, 320, 321. *&c.*
* *Walſingham, Hiſt. p.* 332.
(*d*) *Graſton. p.* 255, 256. *Speed, p.* 701.

liament, which were attempted by the adverſary party, againſt our Soveraigne Lord the King of France, *againſt the Truce late taken in* Britaine, *betwixt our Soveraigne Lord the King, and him. And how that he enforceth himſelfe as much as he may, to deſtroy our ſaid Soveraign Lord the King, and his Allies, Subjects, Lands and places and the tongue of* England. *And that was prayed by our ſaid Soveraigne Lord the King of the Prelates, great men and Commons,* THAT THEY WOULD GIVE HIM SUCH COUNSELL and AIDE AS SHOULD BE EXPEDIENT IN SO GREAT NECESSITY. *And the ſame Prelates, great men and Commons taking good deliberation and advice, and openly ſeeing the ſubverſion of the Land of* England, *and Kings great buſineſſe, which God defend, if haſty remedy be not provided,* HAVE COUNSELLED JOYNTLY and SEVERALLY, *and prayed with great inſtance our Soveraigne Lord the King, that he would make him as ſtrong as he might to paſſe the Sea, in aſſurance of the ayde of God and his good quarrell, effectually at this time,* TO MAKE AN END OF HIS WARRES BY WAY OF PEACE OR ELSE BY FORCE. *And that for Letters, words, nor faire promiſes, he ſhall not let his paſſage, till he ſee the effect of his buſineſſe. And for this cauſe the ſaid great men do grant, to paſſe and adventure them with him. And the ſaid Commons doe grant to him for the ſame cauſe in a certaine forme, two Quinzimes of the Commonalty, and two Diſmes of the Cities and Burroughes, to be levyed in manner as the laſt Quinzime granted to him, and not in other manner, &c. So that the money levyed of the ſame, be diſpended in the buſineſſe ſhewed to them this Parliament,* BY ADVICE OF THE GREAT MEN THERETO ASSIGNED. *And that the aydes beyond Trent,* BE PUT IN DEFENCE OF THE NORTH. A pregnant Precedent of the Parliaments intereſt in concluding Warre and Peace, and diſpoſing of the ayde contributed towards warres, to ſuch perſons and uſes as they deeme meete to confide in. By theſe, with infinite other precedents, the Statute of 1 *Jac.* c. 2. and the *Act of Pacification* and *oblivion* betweene *Scotland* and *England*, made this very Parliament, enacting *that no warre ſhall be levyed or made by any of either Nation againſt the other without conſent of Parliament, under paine of High Treaſon*; It is evident, that the principall right of concluding, denouncing Warre or peace, reſides in the Parliament: and that the King without its previous advice and conſent, ought not to proclaime any open warre, ſince the Subjects eſtates; and perſons muſt ſupport, wage it, and receive moſt diſadvantage by it; a truth not onely implyed but reſolved by his Majeſties owne royall aſſent this very Parliament in the *Act of Pacification* betwixt *England* and *Scotland*. Neither is this thing unuſuall but common in other Kingdomes. (e) *Livy*, (f) *Polybius*, (g) *Grimſton*, (h) *Plutarch*, (i) *John Bodin* expreſly affirme and confirme by ſundry examples; *That in the* Roman *State, both under their Kings and Emperours, the chiefe power of denouncing warre and concluding peace, was in the Senate and people: And if any of their Emperours, Conſuls or Generals concluded peace without their conſents, it did not binde, but was meerely voyd, unleſſe the Senate and people ratified it by a new decree: neither might any warre be decreed, but in the great aſſembly of the Senate and people together, and by a publike Law. And becauſe* Cæſar *had, without command of the people, made warre in* France, Cato Uticenſis *delivered his opinion in the Senate, that the Army was to be called home, and* Cæſar *for his preſumption delivered up to the Enemy.* So in the States and Kingdomes of the (*) *Athenians, Ætolians, Poloni.s, Sweden, Denmarke* and *Norway*, no Warre was begunne, nor Peace concluded by their

(e) *L.* 1 *Rom. Hiſt. D.* c. 2. *l.* 5. *Dec.* 1. *l.* 8. *Dec.* 1 *l.* 9. *D.* 1.
(f) *Lib.* 1. 6.
(g) 1 *perſian Hiſt. p.* 55 *n.*
(h) *Numa Pompilius.*
(i) Commonwealth *l.* 1 *c.* 10 *p.* 162, 163, 164
(*) *Bodin. lib.* & *l.* 3 *c.* 1.

Kings but by the authority and preceding decree of their Senates, Parliaments and Diets, as (*k*) *Bodin* proves at large. The like (*l*) *Buchanan* affirmes of the Kings of *Scotland*; and we have divine authority concurring with it, *Joſh.* 22. 11, 12, &c. *Judg.* 20. 1. to 48. compared with *Prov.* 20. 18. *c.* 24. 6. and *Judg.* 11.

Secondly, All preparations belonging to warre by Land or Sea, have in the groſſe and generall, beene uſually ordered, limited and ſetled by the Parliaments: as namely,

First, What proportions and ſummes of money ſhould be raiſed for the managing of the warre; in what manner and time it ſhould be levyed; to what hands it ſhould be paid; and how diſburſed: which appeares by all the Bills of Subſidies, Tenths, Taxes, Tonnage and Poundage in the Reignes of all our Kings.

Secondly, How every man ſhould be Muſtered, Arrayed, Armed, according to his eſtate, as is cleare by all our Statutes of *Armour*, *Muſters*, *Captaines*, *Ships*, *Horſes*, *Warres*, reduced under heads by (*n*) *Raſtall*; where you may peruſe them: by Juſtice *Crookes* and *Huttons* Arguments againſt Ship-money; Sir *Edward Cookes* Inſtitutes on *Magna Charta*, *f.* 528, 529. the Parliaments two late Declarations againſt the Commiſſion of *Array*: and the Statute of *Winchester*, 13. *E.* 1. *c.* 6.

Thirdly, How *farre* every man ſhall March when he is *Arrayed*, (*o*) when he ſhall goe out of his owne County with his Armes, when not: who ſhall ſerve by Sea, who by Land; how long they ſhall continue in the Warres; when they ſhall be at their owne, when at the Kingdomes, when at the Kings coſts or wages, and for how long time; as the Marginall Statutes, and next forecited Law Authorities manifeſt.

Fourthly, When, where, and by whom (*p*) Liveries, Hats, Coates, ſhall be given in Warres, when not, and what (*q*) Protections or Priviledges thoſe who goe to Warres, or continue in them ſhall have allowed them.

Fifthly, What (*r*) ſhares or proportions of Priſoners, Priſes, Booties, Captaines and Souldiers ſhould be allowed in the Warres: And at what (*s*) Ports and rates they ſhould be Shipped over Sea.

Sixthly, (*t*) How and by whom the Sea ſhall be guarded, and what Juriſdiction, Authority, and ſhare of Priſes the Admirals of *England* ſhall have; When the Sea ſhall be open; when ſhut to enemies and ſtrangers; What puniſhments inflicted for Mariners abuſes on the Sea; And what redreſſe for the Subjects there robbed by enemies or others.

Seventhly, What (*u*) Caſtles, Forts, Bulwarkes, ſhall be built or repaired for defence of the Realme, in what places, and by whoſe charges.

Eightly, What (*x*) puniſhment ſhall be inflicted upon Captaines, who abuſe their truſt, detaine the Souldiers wages, and on Souldiers, who ſell their Armes, or deſert their colours without ſpeciall Licenſe.

Ninthly, What (*y*) proviſion there ſhall be made for, and maintenance allowed to Souldiers hurt or maimed in the Warres by Land, and for Mariners by Sea.

(*k*) *Bodins* Commonweale *l.*1.*c.*10.*p.*162 to 166.
(*l*) *Rerum Stoticarum.l.* 9.*p.* 334. & *l.*7.*p.* 234.
(*m*) 11 *R.*2.*c.* 7. See *Raſtall*, Taxes, &c. 25. *E.*3.*Stat.*9.
(*n*) Abridgement of Stat.
(*o*) 1 *E.* 3. *c.*7. 18 *E.*3.*c.*8. 25 *E.*3.*c.*8. 4 *H.* 4.*c.*13. 11 *H.*7. *c.*18. 19 *H.*7.*c.* 1, 2. 5 *R.* 2. *c.* 10. 1 *H.*5.*c.*9. 2. & 3 *E.*6.*c.*2. 4, & 5. *Phil.* & *Mar.c.*3. 5 *Eliz. c.* 5. *Littleton* Chapter of Eſcuage; & *Cookes* Inſtitutes on it *f.*68. 70, 71. *Fitz. Nat. Bre. f.* 83, 84. 7, *H.* 4. *Fitz.* Tenures, 44. 73. The Acts for preſſing Mariners, this Parliament 1 *H.* 6.*c.* 5. 18 *H.*6.*c.*18.
(*p*) 1 *H.*4.*c.*7. 2 *H.*4.*c.*21. 7 *H.*4.*c.*14 8 *H.* 4.*c.*1.6. & *c.*2. 19 *H.*7.*c.*14.
(*q*) 9 *H.*5.*c.*3. 4 *H.*6.*c.*2. 14 *E.*4.*c.*2. 8 *H.* 6. *c.* 13. *Fitz. Brooke Tit.* Protection, 1 1 *E.*4.*c.*1, 2, 1 *H.*7.*c.*6. 49 *H.*7.*c.* 4. 7 *H.*7.*c.*1.
(*r*) 1 *H.*6.*c.*5. 14 H. 7.*c.*7. 2 *R.*3.*c.* 4. 5 *R.*2. *Stat.* 2.*c.*3.
(*s*) 13. R.2.*c.*20. 14 *E.*4.*c.*10.
(*t*) 2 R.2 *c.* 4. 13. *c.*5. 15 R. 2.*c.*3, 5 R.2.*c.*3. *Stat.*2. 2 H. 4.*c.*11. 2 H.5.*c.*6. 18 *E.*3.*c.*3. 14. H.6.*c.* 6. 7, 8. 2 H 5.*c.*6. 29 H.6.*c.*2. 4 H 5.*c.*7. 14 *E.*4.*c.*4. 18 H.6.*c.*9. 28 H.8.*c.*15. 37 H.8.*c.*4.
(*u*) 21 R.2.*c.*18. See *Spelmans Gloſſ. Admiral. Cookes Inſtit. on Littleton*, 260. 10 H.6.*c.*5. 4 *E.*4.*c.*11. 37 H. 8.*c.*1. 23 *Eliz.c.*4.
(*x*) 2 R.2. *c.*4. 18 H.7.*c.*18, 19. 7 H.7.*c.*1. 3 H.8.*c.*5 2 *E.* 6.*c.*2. *Phil.* & *Mary*, *c.*3. 5 *Eliz.c.* *Dyer* 211. *Cooke* 6.*r.f.* 174.
(*y*) 35 *Eliz.c.*4 39 *Eliz.c.*21. 43 *Eliz.c.*3.

Tenthly,

Tenthly, That (z) no ayde, Armour, Horses, Victuals shall be conveyed to the enemies by way of Merchandise, or otherwise during the Warres; that all *Scots*, and other enemies should be banished the Kingdome and their goods seised whiles the warres continued betweene *England* and them.

Eleventhly, How (a) Frontier Castles and Townes toward *Wales*, and other places of hostility should be well manned and guarded, and no *Welshmen*, *Irish*, *Scots* or alien Enemies should be permitted to stay in *England* to give intelligence, or suffered to dwell or purchase Houses or Lands within those Townes; and that they shall all be disarmed.

Twelfthly, After what (b) manner Purveyances shall be made by the Captaines of Castles, and how they shall take up victuall. In one word, Warres have beene ended, Leagues, Truces made, confirmed, and punishments for breach of them, provisions for preservation of them enacted by the Parliament, as infinite Precedents in the Parliament Rols and * Printed Acts, demonstrate. So that our Parliaments in all * former ages, even in the Reignes of our most Martiall Kings, have had the Soveraigne power of ordering, setling, determining both the beginning, progresse, and conclusion of our Warres, and the chiefe ordering of * all things which concerned the managing of them by Sea and Land; being indeed the great Counsell of Warre, elected by the Kingdome, to direct our Kings; who were and are in truth but the kingdomes chiefe Lord Generalis, (as the (d) *Roman* Emperours, and all Kings of old were their Senates, States and Peoples Generals, to manage their Warres and fight their battailes) the Soveraigne power of making and directing Warre or Peace, being not in the Emperours or Kings themselves, but in their Senates, States and Parliaments, as (e) *Bodin* proves at large. And being but the kingdomes Generals, who must support and maintaine the Warres, there is as great reason that they should direct and over-rule Kings in the Ordering of their Warres and *Militia* when they see cause, as that they should direct and rule their Lord Generall now, or the King his Generals in both his Armies. During the (g) minorities of King *Henry* the sixth, and *Edward* the sixth, the Parliament made the Duke of *Bedford* Regent of *France*, and the Dukes of *Gloucester* and *Sommerset*, Lord Protectors of *England*; committing the trust of the *Militia*, and Warres to them: And (i) 39. *H.* 6. the Parliament made (k) *Richard* Duke of *Yorke*, Lord Protector of the Realme, and gave him like power, when the King was of full age. And in our present times: The King himselfe this very Parliament voluntarily committed the whole care and managing of the Warres in *Ireland* and the *Militia* there to this present Parliament; who appointed both the Commanders and al other Officers of the Forces sent hence into *Ireland*: and that without any injury, or eclipse, to his Majesties Royall Prerogative. If then the Subjects and Parliament in ancient times, have had the election of their *Generals*, *Captaines*, *Commanders*, *Sheriffes*, *Mayors*, and other Officers, having the chiefe ordering of the *Militia* under the King; if they have constantly Ordered all parts and matters concerning the Warres in all former Kings Reignes; appointed Regents and Protectors, committing to them the Kings owne Royall power over the *Militia*, during their Minorities; and his Majesty himselfe hath permitted this Parliament to Order the *Militia* of *Ireland*, to which they have no such right or Title as to that of *England*, without any prejudice to his Prerogative; I can see no just exception, why his Majesty should at first,

(z) 7 R. 2. c. 16 15 R. 2. c. 7. 7 H. 7. c. 6.
(a) 2 H. 4. c. 12 18. 20. 28, 30, 31, 32, 33. 1 H. 5. c. 6, 7. 3 H. 5 c. 3. 4 H. 5. c. 6, 7. 7 *Jac.* c. 1. 15 R. 2. c. 7. 17 R. 2. c. 7. 4 H. 5. c. 6. 1 H. 1. c. 3.
(b) 3 E. 1. c. 7.
(c) 2 H. 5. c. 6. 4 H. 5. c. 17. 14 H. 6. c. 7, 7. 29 H. 6 c. 2. 14 E. 4. c. 4 15 R. 2. c. 7. 8 H. 6. c. 3. 14 H. 6 c. 8. 20 H. 6. c. 12. 23 H. 6. c. 6 27 H. 6. c. 2. 12 E. 4. c. 3. 17 E. 4. c. 1.
* See 13 R. 2. c 2. 27 E. 3. c. 17 1 H. 6. c. 5. 9 H. 5. c. 3. 4 E. 3. c. 8
(d) *Pohb. hist. l.* 6. *Eutropius*, *Munster*, *Grimston*, *Zonaras* in the *Roman* Emperours lives, *Seldens Tit.* of *Honor*.
(e) *Arist. Polit. l.* 3. & 5. 1 Sam. 8 11, 12. 22.
(f) Common-wealth *l.* 1. c. 10
(g) *Walsingham hist. Ang. p.* 458 *Spe. hist. p.* 1108 1109, 1120.
(i) *Graf. p.* 647 Halls Chron. 39 H. 6. *f.* 182. *Sp.* 362. *Holinshed*, *Stow*, *Mariyn*, 38, & 39 H. 6.

or now deny the Parliament ſuch a power over the *Militia*, as they deſired for a time; or why in point of Honour or Juſtice, their Bill for ſetling the *Militia* in ſafe under hands, in ſuch perſons as both ſides may well confide in, ſhould now be rejected, being for the Kings, Kingdomes, and Parliaments peace and ſecurity; much leſſe, why a bloody inteſtine Warre ſhould be raiſed or continued, upon ſuch an unconſiderable point on his Majeſties part: who ſeeing he cannot manage the *Militia* in proper perſon in all Counties, but onely by Subſtitutes; hath farre more cauſe to accept of ſuch perſons of Honour and quality as his Parliament ſhall nominate (in whom himſelfe and his whole Kingdome in theſe times of Warre and danger may repoſe confidence) to execute this truſt, then any whom his owne judgement alone, or ſome private Lords or Courtiers ſhall recommend, in whom the Kingdome and Parliament, in theſe jealous deceitfull times, dare not confide. The yeelding to the Parliament in this juſt requeſt, will remove all feares and jealouſies, reſtore our peace, re-gaine his Majeſty the reall affections of his diſcontented Subjects; the perſiſting in the contrary courſe will but adde fuell to our flames, feares, doubts, dangers, and fruſtrate all hopes, all endevours of Peace.

From the *Militia* it ſelfe, I deſcend to the conſequencies of its denyall, the Parliaments ſeiſing upon *Hull*, with other Ports and Forts, the Royall Navy, Ammunition, Armes, Revenues, and detaining them ſtill from his Majeſty, the grand difference now pretended, whence the preſent warre hath emerged; which theſe enſuing conſiderations will in a great meaſure qualifie, if not altogether ſatisfie.

Firſt, his Majeſty and all Royaliſts muſt neceſſarily yeeld, that the Ports, Forts, Navy, Ammunition, Armes, and Revenues thus ſeiſed on by the Parliament, though his (*i*) *Majeſties* in point of poſſeſſion, yet are not his, but the Kingdomes in point of right and intereſt; they being firſt transferred to, and placed on his Predeceſſors and himſelfe by the Parliament and Kingdome: not in right of propriety, but (*t*) conditionally upon truſt, (his Majeſty being but a publike Officer) for the defence and ſafety of the Realme; and though his Majeſty came to them by deſcent, yet it was but in nature of the Heire of a Feoffee in truſt, for the uſe and ſervice of the kingdome; as a King in his politicke; not as a man or Proprietor in his naturall capacity; as our (*l*) *Law Bookes*, *Terminis terminantibus* reſolve. Hence it hath been oft adjudged; (*m*) that the King can neither by his will in writing, nor by his Letters Patents, Deviſe or alien the Lands, Revenues, Jewels, Ships, Forts, or Ammunition of the Crowne (unleſſe it be by vertue of ſome ſpeciall (*n*) Act of Parliament enabling him to doe it by the kingdomes generall conſent;) and if any ſuch alienations be made, they are voyd in Law, and may be, yea have beene (*o*) oft reſumed, reverſed by the Parliament; becauſe they are not the Kings, but kingdomes, in point of intereſt and propriety: the Kings, but in poſſeſſion and truſt for the kingdomes uſe and defence. Hence it is, that if the King dye, all his (*p*) Ships, Armes, Ammunition, Jewels, Plate, Debts to the Crowne, Moneyes, Arrerages of Rents or Sub-

(*i*) See the Remonſtrance of both Houſes, Nov. 2. 1642.
(*k*) See *Littleton*, ſect. 378, 379. and *Cooke ibid. Fitz. Nat.* f. 113. a. *Cooke* 7. f. 5. 14 E. 3. c. 1. 11 R 2 c. 1 42 E. c. 4.
(*l*) *Plowd. Com.* f. 245. 221. 250 34 H. 6. f. 34. *Cooke Inſtit.* on *Littleton.* f. 15. b.

(*m*) 35 *H.* 6 c. 7. *Fitz. Deviſe.* 5. 1 *H.* 5. Executors. 108. 21 *E* 4. 45. *b.* 21 *E.* 3. 39. 24 *E.* 3. 42. 11 *H.* 4. 7. *Fitz. Quare Imp.* 35. 53. 54. 115, 118, 189. Preſentment *ab Eſcheſe*, 11 Livery. 23, *Cooke*, *l.* 9. f. 97. 16 *R.* 2. c. 1. 4 1 *H.* 6. c. 5. (*n*) 2 *R* 2. c. 9. *Cooke*, *l.* 8. The Princes caſe. 28 *H* 8. c 7. 35 *H* 8. c 1. 1 *H* 6. c. 5. 25 *H.* 8. c. 22. (*o*) 1 *H.* 5. c. 9. 31 *H.* 6. c. 7. 10 *R.* 2. c. 1. (*p*) 14 *E.* 3. Stat. 2. c. 1. 5 *R* 2. c. 3. All Statutes that give Subſidies, Tenths, Tonnage or Poundage, See Raſtall Taxes, &c.

ſidies,

ſidies, Wards, and Rights of preſentments to voyd Churches, goe onely to his Succeſſors, not to his Executors, (as in caſe of a common perſon,) becauſe he enjoyes them not as a Proprietor (as other Subjects doe) but as a Truſtee onely, for the (g) kingdomes benefit and defence; as a (h) *Biſhop, Abbot, Deane, Mayor*, or ſuch like Corporations, enjoy their Lands, not in their naturall but politicke capacities, for the uſe and in the right of their Churches, Houſes, Corporations, not their owne. Upon this ground (i) King *Harold* pleaded his Oath and promiſe of the Crowne of *England* to *William* the Conquerour, and (k) King *Philip*, with all the Nobles of *France*, and our owne Parliament (40 E. 3. *rot. Parl. nu.* 8.) unanimouſly reſolved, King *John* his reſignation and grant of the Crowne and Kingdome of *England*, to the Pope, without the Nobles and Parliaments conſents, to be a meere nullity, voyd in Law, binding neither King nor Subject; the Crowne and poſſeſſions of it, being not the Kings but kingdomes.

(g) See before *Cooke* 5. *f.* 15. & 14 E. 3. c. 1. 10 R. 2. c. 1.

(h) See *Fitz.* & *Brooke.* Abbey Corporations, Deane & Chap. Parſon.

(i) *Speed p.* 419 *Matth. Paris p.* 2

(k) *Mat. Paris hiſt. minor, Dr. Crakenthorpe* of the Popes temporall Monarchy, *p.* 252. to 255. *Graft.* 112. *Mat. Weſt. An.* 1245 *p.* 191. to 197. *Walſingh. Ypodig. Neuſt. p.* 60. *Mat. Paris p.* 646.

And before this, * *Anno Dom.* 1245. in the great Councell of *Lyons*, under Pope *Innocent*, to which King *Henry* the third, ſent foure Earles and Barons, together with the *Engliſh* Prelates, and one Maſter *William Powyke* an Advocate, to complaine of the Popes exactions in the Councell, which they did; where they likewiſe openly proteſted againſt the annuall tribute extorted by the Pope, by grant from King *John*, (whoſe deteſtable Charter granting that annuall tribute, was reported to be burnt to aſhes in the Popes cloſet, by a caſuall fire during this Councell) as a meere nullity, and that in the behalfe of the whole kingdome of *England*; EO QUOD DE REGNI ASSENSU NON PROCESSERAT, becauſe the kingdome conſented not thereto; and becauſe the King himſelfe could make no ſuch Charter to charge the kingdome. Which *Matthew Paris* thus expreſſeth. *W. De Powerie Anglicanæ Univerſitatis Procurator aſſurgens, gravamina Regni Angliæ ex parte univerſitatis Angliæ, proponens ſatis eleganter; conqueſtus eſt graviter, quod tempore Belli per curiam Romanam, extortum eſt tributum injurioſe, in quod nunquam patres Nobilium regni, vel ipſi conſenſerunt, nec conſentiunt, neque in futurum conſentient, unde ſibi petunt juſtitiam exhiberi cum remedio. Ad quod Papa, nec oculos elevans, nec vocem, verbum non reſpondit.*

Upon this reaſon (l) *Matthew Paris* ſpeaking of King *Henry* the third his morgaging his kingdome to the Pope, *Anno* 1251. for ſuch monies as he ſhould expend in the Warres: uſeth this expreſſion. *Rex ſecus quam deceret, aut expediret, Se, ſuumque Regnum, ſub pœna exheredationis*, QUOD TAMEN FACERE NEC POTUIT NEC DEBUIT, *Domino Papæ obligavit.* Hence King *Edward* the third, having the Title of the King and Crowne of *France* devolved to him, which made ſome of the Engliſh feare, that they ſhould be put in ſubjection to the Realme of *France*, againſt the Law; the Parliament in the 14. yeare of his Reigne, *Stat.* 4. paſſed a ſpeciall Act, declaring; That the Realme of *England* never was, nor ought to be in ſubjection, nor in the obeyſance of the Kings of *France*, nor of the Realme of *France*: and enacting; that the King of *England* or his Heires, by colour of his or their Titles to the Crowne, Seale, Armes, and Title of the King of *France* ſhould not in any time to come put the Realme of *England*, or people of the ſame, of what eſtate or condition ſoever they be, in ſubjection or obeyſance, of him, nor his Heires nor his Succeſſors, as Kings of *France*, nor be ſubject, nor obedient, but ſhall be free and quite of all manner ſubjection, and obeyſance as they were wont to

* *Hiſt. p.* 868.

be in the time of his Progenitors, Kings of *England* for ever. By the Statute of 10 *R.* 2. *c.*1. it is reſolved, That the King could not alien the Land, Caſtles, Ships, Revenues, Jewels, and Goods of the Crowne; and a Commiſſion is thereby granted to inquire of, and reſume all ſuch alienations as illegall. Hence the Commons in the Parliament of 16 *R.* 2. *c.*5. of *Præmunire*, in their Petition to the King, and the whole Parliament in and by that Law, declared; That the Crowne and Kingdome of *England*, hath beene ſo free at all times, that it hath been in ſubjection to no Realm, but immediately ſubject to God, and to none other; which (by the proſecution of ſuites in the Court of *Rome* for Benefices, provided againſt by this Act) ſhould in all things touching the Regality thereof, be ſubmitted to the Biſhop of *Rome*, and the Lawes and Statutes of the Realme be by him defeated and fruſtrated at his will, to the deſtruction of the King, his Soveraignty, Crowne and Regality, and of all his Realme; in defence whereof in all points, they would live and dye.

Hence the Kings of *England* have alwayes ſetled, entailed, and diſpoſed of the ſucceſſion and Revenues of the Crowne by ſpeciall Acts of Parliament, and conſent of the whole Realme, becauſe the whole kingdome hath an intereſt therein, without whoſe concurring aſſent in Parliament, they had no power to diſpoſe thereof: as the Statutes of 21 *R.* 2. *c.*9. 7 *H.*4. *c.*2. 25 *H.* 8. *c.*22. 26 *H.*8. *c.*13. 28 *H.*8. *c.*7. 35 *H.* 8. *c.*1. 1 *Mar. c.*1. and *Parl.*2. *c.* 1,2. 1 *Eliz. c.* 3. 13 *Eliz. c.*1. 1 *Jac. c.* 1. *Hals Chron. f.*10. 15. 1 *H.*4. *Speeds Hiſt. p.* 763. 928. to 932. *Daniels hiſt. p.* 122. 138, 139. abundantly manifeſt, and *Cooke l.* 8. the Princes caſe.

Hence in the Parliament Roll of 1 *H.*6. *Num.* 18. The laſt Will and Teſtament of deceaſed *Henry* the fifth, and the Legacies therein bequeathed of 40000. Markes in Goods, Chattels, Jewels, Moneyes for payment of the Kings debts, are ratified by the Lords, Commons, and Protectors concurring aſſents by an Act of Parliament, as being otherwiſe invalid to binde the King or Kingdome. And *Num.* 40. Queene *Katherines* Dower of 40000. Scutes *per Annum*, concluded on by Articles upon her Marriage, and by a Parliament held the ſecond of *May* in the 9. yeare of King *Henry* the fifth, well approved, authorized and accepted, which Articles that King then ſwore unto, and the three Eſtates of the Realme of *England*, to wit, the Prelates, Nobles, and Commons of *England*, in that Parliament, and every one of them, for them, their Heires and Succeſſors, promiſed well and truly to obſerve and fulfill for ever, as much as to them and every of them appertained: Was after her Husbands death, upon her petition, by a ſpeciall Patent made by this Infant King her Son, WITH THE ASSENT OF THE LORDS SPIRITUALL AND TEMPORALL, AND COMMONS OF ENGLAND, IN THAT PRESENT PARLIAMENT ASSEMBLED, Aſſigned, ſetled, and confirmed, out of the Crowne Lands therein ſpecified: elſe it had not beene binding to the Succeſſor King or Realme: the Crowne Lands being the Kings but onely in the kingdomes right; whence all our Queenes Dowers and Joyntures have uſually beene ſetled and confirmed in and by Parliaments, (whereas any other man may endow or make his Wife a good Joynture, without the Parliaments aſſent or privity;) And in * 2 E.3. the *Queene* Dowagers great Joynture (which tooke up three parts of the Kings Revenues) by common conſent in a *Parliament*, held at *Nottingham*, was all taken from her, (becauſe not duely ſetled by Parliament, and too exceſſive, to the Kings and kingdomes prejudice) and ſhe put to a penſion of 1000 *l. per annum*, during her life.

* *Walſingham, Hiſt. p.*112. *Daniels hiſt. p.*220 *Speed p* 688.

And

And by the Statute of 1 *H.* 6. *c.* 5. it is expreſſely reſolved, That King *Henry* the fifth could not alien or pledge the ancient Jewels or Goods of the Crowne, to maintaine his Warres, without a ſpeciall Act of Parliament; and if he did, thoſe to whom he pawned or ſold them, were ſtill accomptable to the Crowne for them, and the alienation voyd; whence, the carrying of the Jewels, Treaſure, and Plate of the kingdome over Sea into *Ireland* without aſſent of the Nobility and Parliament, was one of the (*m*) *Articles* objected againſt *Richard* the ſecond in Parliament, when he was depoſed; the Jewels and Crowne Lands being not the Kings in right of property and intereſt, but the kingdomes onely; and ſo all alienations of them without the Parliaments conſent voyd, and uſually (*n*) reſumed by the Parliament; witneſſe the notable Act of *Reſumption* in 8 *H.* 6. and 31 *H.* 6. *c.* 7. of all the Kings grants of any Honours, Caſtles, Townes, Villages, Manors, Lands, Rents, Reverſions, Annuities, &c. from the firſt yeare of his Reigne till then, with divers other precedents in the Margin, in King *Stevens*, *Richard* the firſt, and *Henry* the 2 & 3. their Reignes.

(*m*) *Graf. p.* 401
(*n*) 1 H. 5 *c.* 9. 10 R. 2. *c.* 1. *Graf. p.* 90, 149 *Mat. Par. p.* 306 308. *Sp. p.* 597 *Daniels hiſt. pa.* 78, 79, 80, 123

Theſe reſolutions of our Common and Statute Law, are ſeconded by many forraigne Civilians, as *Baldus* in *Proem. de Feud. n.* 32. 33. *Aretine in Rubric. Lucas de Penna. Cod. de omni agro deſerto. l. Quicunque f.* 184, 185. *Albericus de Roſate: Quodcunque præſcribere a Zenone. n.* 4. *f.* 3. 1. 4. *Boetius Epan. Hæroic. queſt. qu.* 3. *n.* 43. *qu.* 5. *n.* 19. 27. 34. *Didacus Cavaruvius, Practic. qu. c.* 4. *n.* 1. *Martinus Laudenſis, de Confed. Tract.* 1. *qu.* 13. *Joan. Andreas, in cap. dilect. de Maior. & Obed. Franciſcus Vargas de Author. Pontif. Axiom.* 1. *n.* 2. *Concilium Toletanum* 8. *Surius Concil. Tom.* 2. *p.* 865, 866. with ſundry others (many of whoſe words you may reade in Doctor *Crakenthorps* defence of *Conſtantine*, *p.* 169. to 175.) who affirme; That the Emperour or any other King cannot give away any Townes or Territories belonging to their Empire or Kingdomes, contrary to their Oathes and Truſts, they being the Kingdomes not theirs in right. Whence they conclude, *Conſtantines* pretended Donation of *Rome*, and *Italy* to the Pope, a meere Nullity. It is true, (*o*) our Law-books ſay; That the King cannot be ſeiſed of lands to any private Subjects uſe, by way of feofment, becauſe it ſtands not with his honour to be any private mans feoffee; becauſe no *Subpena* lieth to force him to execute it, & he is a Corporation: yet he may have the poſſeſſion of lands in others right, and for their uſes (as of (*p*) Wards, Ideots, Lunaticks, Biſhops during the vacation, and the like) and if he alien theſe Lands in fee to their prejudice, the (*q*) grant is voyd in Law, and ſhall be repealed, as hath beene frequently judged; becauſe he poſſeſſeth theſe lands not in his owne, but others rights. So the King hath his Crowne Lands, revenues, Forts, Ships, Ammunition, Wards, Eſcheates, not in his owne but the kingdomes right, (*r*) for its defence and benefit; and though he cannot ſtand ſeiſed to a private mans uſe, yet he may and doth ſtand ſeiſed of the premiſes to his whole kingdomes uſe, to whom he is but a publike ſervant, not onely in Law but Divinity too, 1 *Sam.* 8. 20. 2 *Sam.* 5. 12. *Iſa.* 49. 23. *Pſal.* 78. 72, 73, 74. *Rom.* 13. 4. 1 *Pet.* 2. 13. 14. 2 *Chron.* 9. 8.

(*o*) 7 *E.* 4. 17. *Dyer f.* 86. 283. *b.* 1 *R.* 3. *c.* 5.
(*p*) See *Raſtal Wards, Prærog. Regis c.* 9. 10. 32. *H.* 8. *c.* 46. *Bro. Ideot.* 2. 3. *Cooke* 4 *Rep. f.* 126, 127.
(*q*) 7 H. 4. 17. *b.* 21. *E.* 3. *f.* 47. 7 *E.* 4. 17.
(*r*) 14. *E.* 3. *c.* 1 *Stat.* 2. 5. *R.* 2. *c.* 3. 10. *R.* 2. *c.* 1. 1 H 5. *c* 9. 31 *H.* 6. *c* 7.
(*s*) 12. *E.* 4. *c.* 3. 6. *H.* 8. *c.* 14. 1 *E.* 6. *c.* 1. 3. *Mar.* 2 *c.* 18. 1 *E.* 2. *c.* 20. 1 *Jac. c.* 23. and the Acts this Parliament.
(*t*) *Anno.* 1629 *p.* 44.
(*u*) Judge *Crookes* Argument, *p.* 3. to 6.

Secondly, All the Ships, Ammunition, Armes the Parliament hath ſeiſed, were purchaſed not with the Kings, but Kingdomes monies, for the defence and ſervice of the Kingdome, as the Subſidy Bils and (*s*) Acts for Tunnage and Poundage, the Kings owne (*t*) Declaration, and (*u*) Writs for Shipmony atteſt. If then the repreſentative Body of the kingdome, to prevent the arrivall of forraine Forces, and that ivill warre they then foreſaw was like to enſue (and hath experimentally ſince fallen out

out even beyond their feares, and overſpread the whole kingdome, to which it threatens ruine;) hath ſeiſed, ſequeſtred the kingdomes Ports, Forts, Navy, Ammunition into truſty hands for the Kings and Kingdomes uſe, to no other end, but that they ſhould not be imployed againſt the King and Parliament by his Majeſties Malignant Counſellors, and outragious plundering Cavaliers, what indifferent ſober man can juſtly tax them for it? (x) *Queene Elizabeth* (*and the* (y) *State of England heretofore*) *during the Warres with Spaine, inhibited the Haunſe townes and other foraine Merchants* (over whom ſhe had no juriſdiction) *to tranſport any materials for Warre through the narrow Seas to Spaine* (though their uſuall Merchandize to thoſe parts, and the Sea, *as they* (z) *alleadged, was free, for feare they ſhould be turned againſt our Kingdome, and after notice given, made them priſe*) *for any of her Subjects to ſeiſe on. And it is the common policy this day, and anciently of all States whatſoever, to ſeiſe on all proviſions of Warre, that are paſſing by way of Merchandize onely towards their enemies, though they have no right or propertie in them* (*and to grant letters of Mart to ſeiſe them, as we have* (a) *uſually done*) which they plead they *may juſtly doe, by the Law of Nature, of Nations, to prevent their owne deſtruction.* Much more then may the Houſes of Parliament, after the ſodaine eruption of that horrid Popiſh rebellion in *Ireland*, and the feares of a like inteſtine warre from the Malignant Popiſh Prelaticall party in *England*, expecting Forces, ſupplies of mony and ammunition from foraine parts, ſeiſe upon *Hull*, other Ports, the Navy and Ammunition (the *Kingdomes proper goods*, provided onely for its defence in ſuch times as theſe) when his Majeſty refuſed to put them into ſuch hands as the kingdome and they might juſtly confide in, and the contrary Malignant faction plotted to get poſſeſſion of them to ruine Lawes, Liberties, Religion, Parliament, Kingdome: And what miſchiefe thinke you would theſe have long ſince done to Parliament and Subjects, had they firſt gotten them, who have already wrought ſo much miſchiefe without them, by the Kings owne encouragement and command? Doubtleſſe the Parliament being the ſupreame power, now ſpecially met together and intruſted by the Subjects, to provide for the kingdomes ſafety, had forfeited not onely their diſcretion, but truſt, and betrayed both themſelves, their priviledges, the Subjects Liberties, Religion, Countrey, Kingdome; and not onely their friends, but enemies would have taxed them of infidelity, ſimplicity, (that I ſay not deſperate folly) had they not ſeiſed what they did, in the ſeaſon when they did it? which though ſome at firſt, imputed onely to their over-much jealouſie, yet time hath ſince ſufficiently diſcovered, that it was onely upon ſubſtantiall reaſons of true Chriſtian Policy. Had the Cavaliers and Papiſts (now in armes) gotten firſt poſſeſſion of them, in all probability wee had loſt our Liberties Lawes, Religion, Parliament long ere this: and thoſe very perſons (as wiſe men conceive) were deſigned to take poſſeſſion of them at firſt (had they not beene prevented) without reſiſtance, whom his Majeſty now imployes to regaine them by open warres and violence. It is knowne to all, that his Majeſty had no actuall perſonall poſſeſſion of *Hull*, nor any extraordinary officer for him there, before Sir *Iohn Hotham* ſeiſed it, but onely the *Maior of the Towne*, elected by the Townesmen, not nominated by the King; neither did Sir *John* enter it, by order from the Houſe, till the King had firſt commanded the Major and Townesmen (whom he had conſtantly intruſted before) to deliver *Hull* up to the *Earle of Newcaſtle*, now *Generall of the Popiſh Northerne Army*; The firſt breach then of truſt, and cauſe of jealouſie proceedin

(x) *Speeds Hi.* p. 1213. 1219. 1220. *Cambden Elizabeth, An.* 1601. p. 205. *to* 209.

(y) 15 *H.* 6. *c.* 3. See Maſter *Seldens Mare Clauſum.*

(z) See Maſter *Seldens Mare Clauſum*, and *Pontanus* anſwer thereto, and *Grotius* his *Mare liberum.*

(a) 4 *H.* 6. *c* 7, 8 2 *R.* 2. *c.* 4. 27 *E.* 3. *c.* 17. 2 *H.* 5. *c.* 6. 4 *H.* 5. *c.* 7 18 *H.* 6. *c.* 9. 20 *H* 6. *c.* 1. 4 *E.* 4. *c.* 5. *Speeds Hiſt. p.* 1195. *Martinus Laudenſis de Repræſaliis, & de Bello*, 18 *E.* 3 *c.* 8. 3 *E.* 4. *c.* 2.

ceeding from the King himſelfe in a very unhappy ſeaſon; where the quarrell firſt began, and who is moſt blame-worthy, let all men judge. If I commit my ſword in truſt to anothers cuſtody for my owne defence, and then feare or ſee that hee or ſome others will murther me with my owne weapon, it is neither injury nor diſloyaltie in me for my owne preſervation, to ſeiſe my owne Sword till the danger be paſt; it is madneſſe or folly not to doe it, there being many ancient and late examples for to warrant it; I ſhall inſtance in ſome few. By *the* (*b*) *Common Law of the Land, whiles Abbies and Priories remained, when we had any Warres with foraine Nations, it was lawfull and uſuall to ſeiſe all the Lands, goods, poſſeſſions of Abbots, of Priors aliens of thoſe Countries, during the warres* (*though they poſſeſſed them onely in right of their Houſes*) *leſt they ſhould contribute any ayd, intelligence, aſſiſtance to our enemies.* Yea it anciently hath beene, and now is the common cuſtome of our owne and other kingdomes, as ſoone as any breaches and warres begin, after Proclamation made, to ſeiſe and confiſcate all the Ships, goods, and eſtates of thoſe countries and kingdomes with whom they begin warre, as are found within their dominions for the preſent, or ſhall arrive there afterwards, leſt the enemies ſhould be ayded by them in the Warres, (preventing Phyſicke being as lawfull, as uſefull in politique as naturall bodies;) which act is warranted by (*c*) *Magna Charta*, with ſundry other Statutes quoted in the Margin. And though theſe ſeiſures were made by the King, in his name onely, yet it was by authority of Acts of Parliament, as the publike Miniſter of the Realme, for the kingdomes ſecuritie, and benefit rather then his owne. But to come to more punctuall precedents warranted by the ſupreme Law of *Salus Populi*, the onely reaſon of the former.

(*d*) *Anno Dom.* 1214. upon the confirmation of the *Great Charter* and of the *Foreſt* by King *John*, it was agreed, granted and enacted in that Parliamentary aſſembly at *Running-meade*, that *the* 25. *Barons then elected for the conſervators of theſe Liberties and Charters, with the Commons of the Land, might diſtraine and enforce the King* (*if he violated theſe Charters, and made no redreſſe thereof within* 40. *dayes ſpace after notice*) *by ſeiſing upon his* CASTLES, *lands, poſſeſſions, and other goods, till amends ſhould be made according to their arbitration. And for more certainety, the foure Chatelaines* (or chiefe Captaines) *of the Caſtles of* Northampton, Kenelworth, Nottingham, and Scarborough, *ſhould be ſworne to obey the commandment of the* 25. *Barons, or the major part of them in* WHATSOEVER THEY THOUGHT GOOD CONCERNING THESE CASTLES. Wherein NONE SHOULD BE PLACED BUT SUCH AS WOULD BE FAITHFULL and OBSERVE THEIR OATH. And upon this accord, *Rocheſter* Caſtle and others, whoſe cuſtody, of antient right belonged to the Archbiſhop of *Canterbury*, with other *Caſtles appertaining to the Barons*, were reſtored to them by the King; who breaking all his vowes & Charters immediatly after, (through the Barons and peoples ſupine negligence, overmuch confiding to the Kings Oath and confirmations, and vaine conceite of holding that by peace which they had recovered by violence from a perfidious King,) in halfe a yeares ſpace recovers all the Caſtles againe even to the Borders of *Scotland* by meanes of foraine Forces, and a malignant, deſpicable, domeſticke party, (hee having ſcarce ſeven Knights faithfull to him, being generally forſaken of all) and made himſelfe abſolute Maſter of all *England*, except the Citie of *London*, the Suburbs whereof hee burned and ſacked, and ſo tyranniſed over his Subjects with fire, and Sword, pillaging them every where. * *Vaſtando omnes domos*

(*b*) 10 *E.* 3. *Fitz Ayd.* 2. & *Ayde Le Roy.* 43. 65 70. 57. 71. 76. 93. 98. *Aſſ.* 20. 11 *H.* 4. 26. 2. *H.* 4. 10. 14 *H.* 4. 10. 19. 36. 44 *E.* 3. 16. 44. 21 *E.* 3. 24. 44. *Quare Imp. Fitz.* 62. 68. 152 195. *Co. l.* 5. 57, 58: *l.* 7. 19. 22 *E.* 4. 44. 21. *H.* 1. 7. *Aſh. Alien.* 7.

(*c*) 19 *E.* 4. 6. *Magna Cart. c.* 30. 14 *E.* 3. *c.* 2. 27. *E.* 3. *c* 2. 17. 2 *R.* 2. *c* 1. 2 *H.* 5. *c.* 6. 4 *H.* 5 *c.* 7. 1 *H.* 6. 3. 18 *H.* 6 *c.* 9. *See Speeds Hiſtory p.* 1213. 1219. 1220.

* *Cicero de Legibus.*

(*d*) *Matthew Paris p.* 251. 252. *Daniel, Hiſt. p.* 143, 144. 145.

* *Matthew Paris. Hiſt. p.* 264, 265.

domus, & ædificia Baronum diviſis agminibus ſuccendebat, ſpolia cum animalibus rapiebat, & de rapina iniquitatis miniſtros quos habebat nequiſſimos ſaginabat. &c. ſuffieiebat ad cauſam mortis ſimplicibus incolis, ſi aliquid habere credebantur, & qui nihil habebant, fateri habere cogebantur; & qui non habebat, habere ut perſolveret, pœnis exquiſitis diſtringebatur. Diſcurrebant ſicarii cæde humana cruentati, noctivagi, incendiarii, filii Belial ſtrictis enſibus, ut delerent a facie terræ, ab homine uſque ad pecus, omnia humanis uſibus neceſſaria, eductiſque cultellis villas, domus, cæmiteria, eccleſias perluſtrabant, omnes ſpoliabant, ita quidem ut nec muliebri ſexui, nec parvulorum vel decrepitorum parcerent ætati. Et quod conſumere non valebant, incendio tradebant, vel diſpergentes inutile humanis uſibus reddebant. Et quos nulla nota premebant, INIMICOS REGIS VOCANTES (ſi inimici ſui appellandi ſunt, qui eum ad manſuetudinem & juſtitiam manſuetam introducere voluerunt) ubicunque reperiebantur, raptim trahebantur in carcerem pœnalem, vinculis mancipati, & tandem ad graviſſimam coacti redemptionem, &c. (A true Character of our times, and plundering barbarous Cavaliers:) which ſo farre exaſperated the Barons and people, that they elected another King. But the end for which I cite this precedent is, to manifeſt, that the Lords and Commons in that age, did not thinke the Kings owne Charter, Promiſe, Proteſtations, Oathes, Proclamations, the Biſhops and Popes ſolemne excommunications, and thoſe 25. new Conſervators, a ſufficient ſecuritie to preſerve their Lawes and Liberties againſt the invaſions of an, unconſtant, wilfull & fœdifragous King, unleſſe they had the Power and Command of his chiefe Caſtles and the Militia added to them; which wee ſee through overmuch ſecuritie, and want of vigilancy, were all too little to preſerve their Liberties againſt an unconſtant oppreſſing Prince, whoſe oaths and proteſtations were but like (e) *Sampſons cords*, broken all to peeces like a thread in a moment, by thoſe who have *Sampſons* ſtrength. King *Henry* the third was no whit inferiour to his father *John*, in unconſtancy, and perfidiouſneſſe to his Subjects, with whom when he had oft broken his faith and ſolemne oathes, the (f) Lords and Barons (having no other meanes of ſecuritie, left to preſerve their Lawes, Liberties, kingdome from vaſſallage and deſtruction, or to enforce the King to keepe thoſe ordinances which hee had made and ſworne to obſerve in a Parliament at *Oxford* but few yeares before (all which he laboured to reſcinde, having procured a diſpenſation of his Oath from the Pope to colour his perjury;) in the yeare 1260. appointed new Sheriffes and Gardians of Shires, diſcharging ſuch as the King had before admitted, and raiſing a ſtrong power in the Marches of *Wales*, ſent a Letter to the King under the Seale of Sir *Roger Clifford*, *beſeeching him to have in remembrance the Oath and promiſes hee had made, for the obſerving of the Statutes enacted at Oxford, with other Ordinances made to the honour of God, for faith and allegiance to his perſon, and for the weale and profit of his Realme; willing him further to withſtand and defie all ſuch perſons, as will be againſt the ſaid acts, ſaving the Queene and her children.* After which letter ſent, and no anſwer to it received; the Barons with banners diſplayed, went againſt ſuch Malignants as they knew held againſt thoſe Acts. And firſt at *Hereford*, they tooke the Biſhop and all his Chanons who were aliens borne, taking away their money and cattle, and plundering their houſes and manors. And marching towards *London*, much people flocking to them, in their paſſage, ever as they found any that they knew to be againſt the maintenance of the ſaid Acts, they impriſoned them and ſpoyled their houſes, were they ſpirituall or temporall men: furniſhed the eſpeciall Fortreſſes of the kingdome

(e) *Judges* 16. 8. 9 11. 12.
(f) *Matth. Paris* p. 940. to 965. *Grafton*, p. 138. 154. *Speed.* p. 634. to 642. *Fabian Part.* 7. f. 70. to 99. *Matthew Weſtminſter*, *Holinſhead*, and *Daniel* in his life.

kingdome with Gardians of their owne, and in DIVERS OF THE KINGS CASTLES THEY SET IN SUCH MEN AS THEY LIKED, and PUT OUT SUCH AS THE KING HAD PLACED THERE BEFORE; and gave them an Oath, that they would be true and faithfull to the King, and keepe those Castles TO HIS USE, and TO THE WEALE OF THE REALME. And when *William de Valens* denied with oathes to render up any Castle which was given him, by the King (his brother) to keepe; the *Earle of Leycester* and the rest of the Barons answered; *they would either have his Castles or his head*: which so terrified the *Poictovines*, that they left *Oxford* and their Castles to the Barons, and fled into *France*. Which (g) Castles when the King and Lords were accorded, together with the Castles of *Dover* (*Nec Regi ablatum nec vetitum, sed tanquam clavis totius Regni, custodiæ esset diligentiori a Baronibus deputatum*) and the Castle of *Rochester* and others were readily delivered up by the Barons to the King, *qui ubique liberum invenit introitum, & exitum juxta vota; & tunc primo Rex sensit se falsis deceptionibus circumventum, & Baronum suorum fidelitate, ubique licet ignoranter suffultum*; and then the King first found he was circumvented with false reports of the Barons disloyalty, who so willingly restored his Castles to him, when those stormes were blowne over; though he made but ill use of it, tooke occasion thence openly to recede from his Oath; whereupon they reseised these Castles for their safety. About Midsommer the Barons drawing neare to *London*, sent a Letter to the Mayor and Aldermen requiring to know of them, *Whether they would observe and maintaine the Statutes made at Oxford; or not? or aide and assist such persons as intended the breach of the same?* and sent unto them a Copy of the said Acts; with a proviso, that *if there were any of them, that should seeme to be hurtfull to the Realme or Commonweale of the same, that they then by discreet persons of the land should be altered and amended:* Which Copy the Mayor bare unto the King then at the Tower of *London* with the Queene and other great persons. Then the King intending to know the minde of the City, asked the Mayor, *What he thought of those Acts?* who abashed with that question, besought the King, *That he might commune with his Brethren the Aldermen, and then he would declare unto him both his and their opinions.* But the King said, He would heare his advice without more Counsell. Then the Mayor boldly said, *That before times, he with his Brethren and commonalty of the City, by his commandement were sworne to maintaine all Acts made to the honour of God, to the faith of the King, and profit of the Realme; which Oath by his license and most gracious favour they intended to observe and keepe. And moreover, to avoid all occasions that might grow of grudge and variance betweene his Grace and the Barons in the City, they would avoyd all aliens and strangers out of it* (as they soone after did) *if his Grace were so contented.* With which Answer the King seemed to bee pleased, so that the Mayor with his favour departed, and he and the Citizens sent answer to the Barons, that they condescended to those acts, binding themselves thereunto under the publike Seale of *London*, their Liberties alwayes upholded and saved. Then the Barons entred the City, and shortly after the King with his Queene and other of his Counsaile, returned to *Westminster*.

(g) *Mat. Paris, p. 960. Math. Westm. An. 1161 p. 306, 307.*

* *Anno* 1264. (the 48. of *Henry* the third) the King made his peace with the Barons then in Armes, upon these termes: That ALL THE CASTLES OF THE KING, throughout *England*, should be delivered TO THE KEEPING

* *Mat. Paris, p. 961. Dan. hist. p. 179. 180. Mat Westm. An. 1263. p. 313. 316.*

KEEPING OF THE BARONS: *the Proviſions of* Oxford *be inviolably obſerved; and all Strangers by a certaine time avoyded the kingdome, except ſuch as by a generall conſent, ſhould be held faithfull and profitable for the ſame:* Whereupon the Barons tooke poſſeſſion of moſt of the Caſtles by agreement, or violence where they found reſiſtance, as they did in many places. And by the CONSENT of THE KING and BARONS, Sir *Hugh le Spenſer* was made Chiefe Juſtice and keeper of the *Tower*. This done at *London*; the Barons departed to *Windſor* to ſee the guiding of that Caſtle, where they put out thoſe aliens, whom Sir *Edward* the Kings Sonne had before put in, and put other Officers in their places; ſpoyling them of ſuch goods as they had. Who complaining thereof to the King, he put them off for that ſeaſon. After which they re-ſeiſed *Dover Caſtle*, and made *Richard de Gray*, a valiant and faithfull man, Conſtable of it; who ſearching all paſſengers that came thither, very ſtrictly, found great ſtore of Treaſure, which was to be ſecretly conveyed to the *Poictovines*, which he ſeiſed, and it was imployed by the Barons appointment, upon the profitable uſes of the Realme. The yeare following, the Commons of *London* choſe *Thomas Fitz-Thomas* for their Mayor, and without conſent of the Aldermen, ſware him at the *Guild-hall*, without preſenting him the next day to the King or Barons of the Exchequer. For which the King was grievouſly diſcontented; and being advertiſed that the Citizens tooke part with the Barons, cauſed his Sonne *Edward* to take the Caſtle of *Winſor* by a traine; to which the King and Lords of his party repaired. And the other Lords and Knights with great Forces drew towards *London*; but by mediation of friends, there was a peace concluded, and the differences were referred to the *French* King to end. Who giving expreſſe ſentence that all the Acts of *Oxenford*, ſhould from thenceforth be utterly forborne and annulled:

The Barons diſcontented with this partiall ſentence, departed into the Marches of *Wales*; where raiſing Forces, they ſeiſed on many Townes and Caſtles of the Kings, and Prince *Edward* going againſt them, was ſore diſtreſſed and almoſt taken. Hereupon to end theſe differences, a new Parliament was appointed at *Oxford*; which tooke no effect, *Becauſe when the King had yeelded the Statutes of Oxford ſhould ſtand, the Queene was utterly againſt it*; whoſe oppoſition in this point being knowne to the *Lundoners*, the baſer ſort of people were ſo enraged, that ſhe being to ſhoot the Bridge from the Tower, towards *Winſor*, they with darts, ſtones, and villanous words, forced her to returne. After which, the Lords ſending a Letter to the King, to beſeech him not to beleeve the ill reports of ſome evill Counſellors about him, touching their loyalty and honeſt intentions; were anſwered with two Letters of defiance. Upon which enſued the bloody battle of *Lewis* in *Suſſex*, in which the King and his Sonne, with 25. Barons and Baronets, were taken priſoners, & twenty thouſand of the Commons ſlaine. *Richard* King of *Romans*, the Kings Brother was likewiſe taken priſoner in this Battle, (*b*) who a little before comming over into *England* with ſome Forces to ayde his Brother, the Barons hearing thereof cauſed all the Ships and Gallies of the Cinqueports and other places to meet together armed, to reſiſt him by Sea, and ſent horſe and foot to withſtand him by Land if he arrived: Which *Richard* having intelligence of, diſbanded his Forces; and ſent word to the Barons, that he would take an Oath to obſerve the Articles and Statutes made at *Oxenford*: whereupon he was permitted to land at *Dover* with a ſmall Traine, whither

Nota.

(*b*) *Mat. Paris, p. 152, 153. Sp. p. 636.*

ther King *Henry* went to meet him. *But the Barons would not ſuffer this King, nor any of his Traine to enter into Dover Caſtle, becauſe he had not taken his Oath to obſerve the foreſaid Statutes; nor yet the King of* England *to goe into it* (for feare of ſurpriſall) *becauſe it was the principall Bulwarke of* England; (the Barons then having both it and all the Cinqueports in their Cuſtody to ſecure the kingdome from danger) Neither would they permit King *Richard* to goe on towards *London*, till he had taken the Oath * forementioned. After this battle all the priſoners were ſent to ſeverall priſons, except the two Kings and Prince *Edward*, whom the Barons brought with them to *London*; where *a new Grant was made by the King, that the ſaid Statutes ſhould ſtand in ſtrength: and if any were thought unreaſonable, they to be amended by foure Noblemen of the Realme: and if they could not agree, then the Earle of Angiou, and Duke of Burgoin to be Judges of the matter: And this to be firmely holden and obeyed by both the Kings*; who granted that both their Sonnes and Heires ſhould remaine as Priſoners, and Hoſtages with the Barons, till all things were finiſhed according to this agreement. Upon which a Peace was proclaimed in *London* betweene the King and his Barons. Then it was agreed by the King, that *for his more ſurety and the weale of the Land, the Earle of Leyceſter ſhould be reſident in his Court*; Upon which agreement, many of the Priſoners were ſet at large. In the meane while, before the battaile of *Lewis*, the Queene and King of *Romans*, had ſent over-ſea for Souldiers, to ayde the King againſt the Barons, which now were come in great number unto *Dover*, and there hovered on the Sea to have landed. Whereof the Barons hearing, they ſent the King of *Romans* as Priſoner to *Barkhamſted*, untill the ſaid *Almaines* were returned, and cauſed King *Henry* with a great power to ride to *Dover*, and force the ſaid Hoſt of ſtrangers to returne unto their Countries. After which by the counſell of the Lords, a Parliament was agreed and held at *Weſtminſter*, wherein a generall Pardon was granted to all the Lords and their adherents, for any matter of diſpleaſure done to the King or his Sonne Prince *Edward* before that day; which to uphold, the King and he tooke a ſolemne Oath before the Lords; and it was further agreed, That the Prince ſhould reſide in the Kings Court, and not depart thence without licenſe of the King and of certaine Barons. Then were many inſtruments and bonds made by the King and Prince, for the performance of ſundry Covenants betweene the King and Barons; which ſhortly after tooke ſmall effect, and begat new warres; this Kings freſh breaches of Oathes, and promiſes, procuring him alwayes new inſurrections and forced Parliaments; which the Barons conſtrained him to call and hold, againſt his will. How the Lords and Parliament oft ſeiſed upon the Caſtles, Forts, Ammunition in King *Edward* the ſecond, and *Richard* the ſeconds Reignes, when differences grew betweene them, I have already in part remembred, and you may reade the reſidue in the Hiſteries of their lives. In (*1*) the 33. yeare of King *Henry* the ſixth his Reigne, the valiant Earle of *Warwicke*, was made Captaine of *Calice* by the Parliament; a place of great honour and truſt in thoſe dayes: by vertue whereof, all the warlike affaires and buſineſſe, reſted principally in the Earle of *Warwicke*: After which the Queene (an ambitious ſtirring woman) to breake the peace newly made and ratified by oath, betweene the King, Lords, and Duke of *Yorke*, (created Lord Protector by the Parliament) cauſed a fray to be made on the Earles men, which produced a warre and bloody battle, wherein the Earle gained the field.

Part 1. p. 8.

(*1*) *Hals Chron. An. 33. 39 H. 6. f. 165. to 176. Stow & Hall Chron Edit ult. p. 400. 404. Grafton p. 627, 628, &c. Speed p. 855. 856, 857. Fabian part 7. p. 453, to 463.*

Whereupon the King diſpleaſed with the Earle, by his Letters Patents, granted

the Captainſhip of *Caleyes* to *John Duke of Summerſet*; who going over to *Caleyes*, in the 38. yeare of King *Henry*, to take poſſeſſion of his place; ſhewed his Patent to the Earle, who refuſed to reſigne his place, anſwering, *that he was put into it by the Parliament, and ſo could not be outed of it but by Parliament*; and kept the Duke forth of the Towne; who being thus expelled from his office, after ſome skirmiſhes with the Earles Garriſon, (wherein the Duke had the worſt) hee ſent over to the King and Queene for ayde, in defence of this quarrell; whereupon they provided 400. warlike perſons to paſſe the Seas for his ayde, and ſhips to tranſport them: who lying at *Sandwich* for a winde; the Earle of *Warwicke* being therewith acquainted, ſent *John Dingham* a valiant Eſquire, with a ſmall number of men, but a multitude of couragious hearts to *Sandwich*; who ſuddainly entred the ſame, tooke the Lord *Rivers* and his Sonne (who commanded thoſe Souldiers) in their beds, pillaged ſome houſes and ſhips, and beſides this, *tooke the principall ſhips of the Kings Navy then lying at the Port well furniſhed with ordnance and artillery* (through the favour of the Mariners, who favoured the Earle moſt) *and brought the royall ſhips loaden with booty and priſoners to Caleyes*; With theſe ſhips the Earle after paſſed to the Duke of *Yorke* into *Ireland*, and afterwards into *England*, where the Duke of *Yorke* in full Parliament laid claime to the Crowne, which his Sonne after obtained, depoſing King *Henry*, as having no lawfull Title thereunto. I recite not this Story to juſtifie all particulars of it, but onely to prove, That the Parliament in thoſe times, had the conferring of Captaines places of greateſt truſt, who had the command of the *Militia*; and that, as this Earle in policy onely, for his owne ſafety, ſeiſed on the Kings royall ſhips, and Ammunition, in which he had no right; ſo by the ſame reaſon, the Parliament may diſpoſe of ſuch places of Military truſt in theſe times of danger, and of the Navy and Ammunition of the kingdome, in which they have a reall intereſt, for the kingdomes ſafety and their owne. (*k*) *A Sheriffe, Juſtice, Conſtable, and other Officers, by the Common and Statute Law of the Land, may and ought to diſarme and ſeiſe any mans weapons whatſoever, and impriſon his perſon for a time, when by act, or apparent intention onely, he ſhall but diſturbe the peace, or make any Fray, Rout, or Riot, to the annoyance of the people, till the tumult and danger be paſt, and the peace ſecured.* Much more then may the higheſt Soveraigne Court of Parliament, ſeiſe the Forts, Armes, Navy, Ammunition of the Realme, (in which they have reall intereſt) and ſecure them for a ſeaſon, to preſerve the whole kingdomes Peace, and prevent a civill Warre, without any injury to his Majeſty, till all feares of warre and danger be removed. Not to trouble you long with forraine hiſtories of this Nature; in the *Roman ſtate the* (*l*) *chiefe power of making warre or peace, of ordering of the Militia and diſpoſing of the cuſtody of Caſtles, Forts, Ammunition was in the Senate and people, not the King or Emperour; as it is in Germany, and moſt forraine States and kingdomes, at this day; without any diminution to thoſe Kings and Princes juſt prerogatives.* It is the determination of the prime Politician (*m*) *Ariſtotle* (ſeconded by (*n*) *John Mariana* and others) *that in lawfull kingdoms the chiefe ſtrength & power of the Militia ought to reſide in the kingdomes hands; not Kings, who ought to have onely ſuch a moderate power and guard of men, as may ſuffice to ſuppreſſe riots, and maintaine the Authority of the Lawes; but not ſo great a force as may maſter all his kingdome, * leſt he become a tyrant, and his Subjects ſlaves.*

In the kingdome of *Arragon* in *Spaine* (as I read in * *Hieronymus Blanca*) this is a fundamentall antient Law, (made about the yeare of Chriſt 842. by their *Superbieny*

Forum

(*k*) 5 *H.*7. *b. Bar.* 141. 22. *E.*4. 35. *b. Bar.* 202. *Br. Fitz.* Impriſonment, 6. 12. & *Hiſt.* 3. *Compto de Pace, f* 97 98. 113, 114. 132. 1 c. 38. 7 R. 2. c 6. 13 *H.*4 c. 7 2. *H.*5. *c.* 6. 8. 5 R. 2 c. 5. 17 R. 2. c. 8. 19 *H. A&.*7. *c.* 13. 3 *E.*6. *c.* 5. 1 *Maria* c. 12.

(*l*) *Livi. Hiſt. l.* 1. 2. 4. *Polybius, Hiſt. l.* 6. *Dionyſ. Hal. l.* 2. *c.* 2. *Bodius* Commonweale *l.* 1. *c.* 10 *l.* 5. See the Appendix.

(*m*) *Polit. l.* 3. *c.* 11.

(*n*) *De Rege & Regis Inſtit. l.* 1. *c.* 8, 9.

* *Bodin. Commonweale, l.* 5. *c.* 5.

* *Arragonenſium Rerum Commentar. p.* 588, 589. 723.

Forum, now commonly ſtiled, *Juſtitia Arrogoniæ* during the *Interregnum*, to preſerve their Countries Liberties, to keepe their Kings power within due bounds of royaltie,& prevent a tyranny,with divers others of this nature,which their Kings ſolemnly ſweare to obſerve,before they are crowned:)the words of the Law are theſe, *The King ſhall take heed that he neither undertake warre, nor conclude peace, nor make truce, nor handle any thing of great moment, but by the adviſe and conſent of the Elders*: to wit, the *Juſtitia Arragoniæ*, the ſtanding Parliament of that kingdome, *which hath power over and above the King*. And at this day (as the ſame * Author writes) their *Rici-homines*, (or ſelected Peeres appointed by that kingdome,not the King) *have all the charges and offices both of warre and peace lying on their neckes, and the command of the Militia of the kingdome; which they have power by their Lawes to raiſe, even againſt their King himſelfe, in caſe he invade their Lawes or Liberties*; as he there manifeſts at large. So in * *Hungary*, the *great Palatine of Hungary*, the greateſt officer of that kingdome, *and the Kings Lieutenant Generall, who commands the Militia of that Realme, is choſen by the Parliament and Eſtates of that country, not the King*. It was provided by the Lawes of the * *Ætolians*, that nothing ſhould be entreated of CONCERNING PEACE OR WARRE, *but in their Panætolio, or great generall Councell of ſtate: in which all Ambaſſadors were heard and anſwered; as they were likewiſe in the Roman Senate*. And * *Charles* the fifth of *France*, having a purpoſe to drive all the *Engliſhmen* out of *France* and *Aquitain*, aſſembled a generall aſſembly of the eſtates in a Parliament at *Paris*, by *their adviſe and wiſedome to amend what by himſelfe had not beene wiſely done or conſidered of, and ſo undertooke that warre with the counſell and good liking of the Nobilitie and people whoſe helpe he was to uſe therein*: which warre *being in and by that Councell decreed, proſpered in his hand; and tooke good ſucceſſe* as *Bodin* notes; *becauſe nothing giveth greater credit and authority to any publike undertakings of a Prince and people in any State or Commonweale, then to have them paſſe and ratified by publike adviſe and conſent.*

* *Ibid.p.724.*
* *Foris & in caſtris ſummum Imperium ſummam rerum bellicarum adminiſtrationem obtinet, &c.*
* *Nicholaus Iſthuanfus de Rebus Ungar. Hiſt.l.6 f.84, 85. Bodins Commonweale, l.1.c.10.p. 167.*
* *Livy,Rom. Hiſt.l.31.35. Bodin.Commenweale,l.3. c.1.*
* *Bodin Ibid.*

Yea *the great Conſtable of France,who hath the government of the Kings Sword,the Army,and Militia of France,was anciently choſen by the great Councell of the three Eſtates and Parliament of that kingdome*; as is manifeſt by their election of *Arthur Duke of Britaine to that office, Anno* 1324. before which, *Anno* 1253. they elected the * Earle of *Leyceſter* a valiant Souldier and experienced wiſe man, to be the *grand Seneſchall of France, ad conſulendum regno deſolato, & multum deſperato, quia ſtrenuus fuit & fidelis*; which office he refuſed, leſt he ſhould ſeeme a Traytour to *Henry* the third of *England*, under whom he had beene governour of *Gaſcoigne*, which place he gave over for want of pay. In briefe, the late examples of the (*o*) *Proteſtant Princes in Germany, France, Bohemia, the Low countries*, and of our brethren in *Scotland* within foure yeares laſt, who ſeiſed all the Kings Forts, Ports, Armes,Ammunition, Revenues in *Scotland*, and ſome Townes in *England* to preſerve their Lawes, Liberties, Religion, Eſtates, and Country from deſtruction, by common conſent, (without any Ordinance of both Houſes in their Parliament) will both excuſe, and juſtifie all the Acts of this nature, done by expreſſe Ordinances of this Parliament; which being the Soveraigne higheſt power in the Realme, intruſted with the kingdomes ſafety; may put the Ports,Forts, Navy,Ammunition (which the King himſelfe cannot manage in perſon, but by ſubſtitutes) into ſuch under Officers hands, as ſhall both preſerve and rightly imploy them for the King and kingdomes ſafety, and elect the Commanders of the Militia according

* *Bodins Ibid.*

* *Matthew Paris Hiſt.Angliæ p.835.*

(*o*) *Dinothi Hiſtoria,Spedan l.8.18.12. Grimſton Imperiall Hiſtory, in Redulph 2. and Ferdinand, the ſecond.*

according to the expreſſe letter of *King Edward the Confeſſors Laws* (which our Kings at their Coronations were ſtill ſworne to maintaine) wherewith I ſhall in a manner conclude, the Legall part of the Subjects right to elect the Commanders of the *Militia*, both by Sea and Land. * *Erant & aliæ poteſtates & dignitates per provincias & patrias univerſas & per ſingulos Comitatus totius regni conſtitutæ, qui Heretochii apud Anglos vocabantur; Scilicet, Barones, Nobiles, & inſignes, ſapientes & fideles, & animoſi; Latine vero dicebantur Ductores exercitus; apud Gallos, Capitales Conſtabularii, vel Maraſchalli Exercitus. Illi vero ordinabant acies denſiſſimas in prœliis, & alas conſtituebant, prout decuit, & prout iis melius viſum fuit, ad Honorem Coronæ,* ET AD UTILITATEM REGNI. *Iſti vero viri* ELIGEBANTUR PER COMMUNE CONCILIUM PRO COMMUNI UTILITATE REGNI, PER PROVINCIAS ET PATRIAS UNIVERSAS, ET PER SINGULOS COMITATUS (ſo as the King had the choyce of them in no Province or Countrey, but the Parliament and people onely) *in pleno Folcmote.* SICUT ET VICECOMITES PROVINCIARUM ET COMITATUUM ELEGI DEBENT. *Ita quod in quolibet Comitatu ſit unus Heretoch* PER ELECTIONEM ELECTUS *ad conducendum exercitum Comitatus ſui, juxta præceptum Domini Regis, ad honorem Coronæ, &* UTILITATEM REGNI *prædicti, ſemper cum opus adfuerit in Regno. Item qui fugiet a Domino vel ſocio ſuo pro timiditate Belli vel Martis in conductione Heretochii ſui* IN EXPEDITIONE NAVALI, VEL TERRESTRI (by which it is evident theſe popular Heretochs commanded the *Militia* of the Realme both by Sea and Land, and might execute Martiall Law in times of warre) *perdat omne quod ſuum eſt, & ſuam ipſius vitam, & manus mittat Dominus ad terram quam ei antea dederat. Et qui in bello ante Dominum ſuum ceciderit, ſit hoc in terra, ſit alibi, ſint ei relevationes condonatæ; & habeant Hæredes ejus pecuniam & terram ejus ſine aliqua diminutione, & recte dividant inter ſe.* An unanſwerable evidence to ſatisfie all men.

* *Lambard, Archaion. f.* 135 *De Heretochiis.*

To which I ſhall onely adde that obſervation of the learned Antiquary Sir *Henry Spelman* in his * *Gloſſarium*; Title *Dux*, and *Heretochius*; (where he cites this Law of King *Edward*) That the *Heretoch* was *Magiſter Militiæ, Conſtabularius, Mariſcallus,* DUCTOR EXERCITUS, SIVE NAVALIS, SIVE TERRESTRIS; called in Saxon * *Heretoga: ab Here, Exercitus, & Togen, Ducere. Eligebantur in pleno Folcmote, hoc eſt, non in illo ſub initio calendarum Maii, at in alio ſub capite Calendarum Octobris. Aderant tunc ipſi Heretochii, &* QUÆ VOLUERE, IMPERABANT EXEQUENDA; *conſulto tamen* PROCERUM COETU, ET JUDICIO TOTIUS FOLCMOTI APPROBANTE. Then he ſubjoynes POPULARIS ISTA HERETOCHIORUM SEU DUCUM ELECTIO, *noſtris Saxonibus cum Germanis aliis* COMMUNIS FUIT: *Vt in Boiorum ll. videas, Tit.* 2. *cap.* 1. *S.* 1. *Siquis contra Ducem ſuum, quem Rex ordinavit, in Provincia illa* AUT POPULUS SIBI ELEGERIT DUCEM, *de morte Ducis conſiliatus fuerit, in Ducis ſit poteſtate, &c. Huc videtur pertinere quod apud Greg. Turon. legas l.* 8. *Sect.* 18. *Wintro Dux à Pagenſibus ſuis depulſus Ducatu caruit, &c. ſed poſtea placato populo Ducatum recepit: Eligebantur enim interdum Provinciarum Duces* AB IPSO POPULO. In the * Roman State, *the Senate, and ſome times the people alone, without their adviſe, had power to appoint Lieutenants and Governours of Provinces; whence the* * *Senate commanded thoſe Governours of Provinces whom the Emperour* Maximinus

* *P.* 232 348, 349.

* *See Maſter Seldens Titles of Honour, p.* 605.

* *Bodins Commonweale, l.* 3. *c.* 1. *p.* 373.

* *Cromptons Imperiall Hiſt. p.* 171.

had

to be diſplaced, and others to be ſubſtituted in their roomes, which was accordingly [illegible] *yea* * *the Senate had power to diſpoſe of the common Treaſure, and publike revenue, the greateſt points of Soveraingty.* And ſo we read in Scripture, *Judges* 11.5. to 12. *That when the children of Ammon made warre againſt Iſrael, the Elders of Gilead went to feteh Jephthah out of the land of Tob. And they ſaid unto Jephthah, Come and be our Captaine, that we may fight with the Children of Ammon, &c. Then Jephthah went with the Elders of Gilead, and* THE PEOPLE MADE HIM HEAD and CAPTAINE OVER THEM: the *Princes and people*, even under Kings themſelves, *having the chiefe diſpoſing power of the Militia and denouncing war*, as is evident by *Joſh.* 22.11. to 32. *Judges* 20. and 21. throughout 1 *Sam.* 14.38. to 46. *c.* 29. 1. to 11. 2 *Sam.* 18.2,3,4. *c.* 19. 1. to 9. *Prov.* 20.18. *c.* 24. 6. compared together.

* *Bodin Com. l.3.c.1.p.273.*

And for a cloſe of all, leſt any ſhould object, that no late direct precedent can bee produced to prove the office of the *Lord Admirall*, and cuſtody of the Seas diſpoſed by Parliament, I ſhall conclude with one punctuall precedent of many. In 24. *H.* 6. *prima Pars Pat. m^a.* 16. *The King grants to John* Duke of *Exeter*, the OFFICE OF ADMIRALL OF ENGLAND, IRELAND and AQUITAIN, with this ſubſcription, *Per breve de privato ſigillo*, AVCTORITATE PARLIAMENTI, the former Patent of this office made joyntly to him and his ſonne by the King alone, in the 14. yeare of his reigne, being ſurrendred in the Parliament of 24. and a new one granted them by its direction and authority. Yea moſt of the Admiralls Patents (which anciently were not univerſall for all *England*, but ſeverall for ſuch and ſuch parts onely, and commonly but annuall or triennuall at moſt) as Sir *Henry Spelman* obſerves in his *Glaſſary*, in the word *Admirallus*, where you have an exact Kalender of all the Admiralls names, with the dates of their ſeverall Patents and Commiſſions, are DE AVISAMENTO ET ASSENSU CONSILII; which is almoſt as uſually taken for the Kings * *great Counſell*, the *Parliament*, as for his privy Counſell. And if our Kings have conſtantly diſpoſed of this Office by the adviſe or aſſent of their privy Counſell, there is more reaſon and equitie they ſhould doe it by the adviſe of their great Counſell, of which his privy Counſell are but a part, and by whom they have frequently beene elected, as I ſhall plentifully manifeſt in the next objection.

* *Cookes inſtit. on Lit. f.* 110. *Cambdens Brit. p.* 177 *Holinſheds* Deſcription of *England c.* 8. *p.* 113. and Annals of *Ireland, p.* 120. to 130. *Brooke, Crompton, Cowel, Marſhew Tit. Parlem. Sr Thomas Smiths* Commonwealth. *l.*2.*c.*1.2.

Now, whereas ſome pretend, that the Parliaments ſeiſing and detaining of the Kings Caſtles, Ports, Ships, Armes and Ammunition is High Treaſon, within the Statute of 25 *Ed.* 3. *c.*3. and *a levying of warre againſt the King.*

Object.

I anſwer, firſt; that the Parliament was never within the meaning, nor letter of that, or any other Act concerning Treaſons, as I have formerly proved; the rather becauſe the King is a member of it, and ſo ſhould commit Treaſon againſt himſelfe, which were abſurd.

Anſw.

Secondly, becauſe both Houſes are of greater authority then the King, (a member of them as they make one Court) & ſo cannot commit Treaſon againſt the leſſe.

Thirdly, the Parliament is a *meere* (*p*) *Corporation and Court of juſtice*, and ſo not capable of the guilt of Treaſon: A Iudge, Maior, or particular perſons of a Corporation may be culpable of high Treaſon, as private men, but not a Court of juſtice, or Corporation.

(*p*) 14 *H.*8. *f.*3.*b.*

Fourthly, by the very Statutes of 25 *E.*3. and of 11 *R.*2. *c.*3 21 *R.*2. *c.*12. 1 *H.*4. *c.*10. 21. *R.*2. *c.*3. the Parliament is the ſole Judge of all new Treaſons, not within the

* *See Linſtead Sect.* 297. 314. 323 *& Cooke Inſt. Indict.*

very letter of that act; *and if any other caſe ſuppoſed Treaſon, not there ſpecified, happens before any Juſtices, the Juſtice ſhall tarry without any going to judgement of the Treaſon, till the cauſe bee ſhewen and declared before the King and his Parliament, whether it ought to be judged Treaſon.* And if the Parliament be the ſole Judge of all Treaſons, it cannot be guilty of Treaſon, for then it ſhould be both Judge and Delinquent; and if ſo, no doubt it would ever acquit it ſelfe of ſuch a crime as High Treaſon, and never give judgement againſt it ſelfe. And no Judge or perſon elſe can arraigne or judge it, or the members of it, becauſe it is the higheſt ſoveraigne Court, over which no other perſon or Court whatſoever hath any the leaſt juriſdiction: So that if it were capable of the guilt of Treaſon, yet it could not be arraigned or judged for it, having no ſuperiour or adequate Tribunall to arraigne it.

Fiftly, admit it might be guilty of High Treaſon in other caſes, yet it cannot be ſo in this. For having a joynt intereſt with the King in the premiſes in the Kingdomes right, (the ſole propriator of them) it cannot doubtles be guilty of treachery, much leſſe of High Treaſon for taking the cuſtody and poſſeſſion onely of that which is their owne; eſpecially when *they both ſeiſe and detaine it for its owne proper uſe, the Kingdomes ſecurity and defence; without any malicious or traytorous intention againſt King or kingdome.*

Secondly, I anſwer, that the ſeiſing or detaining of theſe from the King are no Treaſon, or *levying of Warre* within this Law, as is moſt evident by the Statutes of 6. *Ed.* 6. *c.* 11. which expreſly diſtinguiſheth, *the ſeiſing and detaining of the Kings Forts, Ammunition, Ships, from the levying warre againſt the King in his Realme*, and by an expreſſe new clauſe, enacts this *ſeiſing and detayning* to be High Treaſon from that time, becauſe it was no Treaſon within 25. *Ed.* 3. before, which if it had beene in truth, this new clauſe had beene ſuperfluous; which law of King *Edward* being repealed by *primo Mariæ, Raſtal Treaſon*, 20. this offence then ceaſed to be Treaſon: whereupon by a ſpeciall act of Parliament in 14 *Eliz. c.* 1. it was made *High Treaſon againe*, (which had beene needleſſe, if it had beene a *levying of warre*, or Treaſon within 25. *Ed.* 3. before.) And that with this proviſo, *this Act to endure during the Queenes Majeſties life that now is*, ONLY; and ſo by this Parliaments reſolution, it is no Treaſon ſince her death, within 25 *Ed.* 3. for then this proviſo had beene idle and repugnant too. And therefore being now no High Treaſon in any perſon, cannot without much calumny and injury be reputed Treaſon in both the Houſes of Parliament, uncapable of High Treaſon, as the premiſes demonſtrate.

In briefe, he that ſeiſed and detained the Forts and Ships of the kingdome, when it was Treaſon, was not a bare *Traytor* againſt the Kings perſon or Crowne onely, but againſt the *King and his Realme too, like thoſe Traytors, mentioned in the ſeverall ſtatutes of* 11 *R.* 2. *c.* 4. *and* 21 *R.* 2. *c.* 2. 4. *He ſhall be judged and have execution as a* TRAITOR and ENEMY OF THE KING and TO THE REALME: and in 28 *H.* 8. *c.* 7. HIGH TRAITORS TO THE REALME, As the Gunpouder Traytors were to the *Parliament* and *Realme* in them, being the repreſentative Body of the Realme: the Parliament then being the Realme repreſentatively and authoritatively too, and ſo the party againſt whom this Treaſon is principally to bee committed, cannot bee a Traytor to it ſelfe, by the words or intendment of any expired Act which made ſuch a *ſeiſure* or *detainer Treaſon*. And therefore thoſe Lawyers, who pronounce this Parliaments ſeiſing and detaining of the Ports, Forts, Navy, Armes, or Ammunition of the Realme to keepe them out of

worser hands, for the Kings and kingdomes right use and safetie, *to be High Treason* declare themselves *Greater Malignants* then *Artists in their owne profession.*

But some body (say Malignants and Royalists) must be trusted with the *Militia, Ports, Navy, Armes, Ammunition*; and who so fit to be confided in as the King himself, and those whom he shall appoint? Especially since hee and his owne substitutes, have formerly beene intrusted with them by the kingdome; and wee have now so many deepe* *Protestations, yea publike printed Asseverations and Promises from his Majestie, to maintaine the Protestant Religion, our Lawes, Liberties, Properties, Parliaments, with their just Priviledges*; and shall we not beleeve and trust his Majesty after so many royall assurances, seconded with many Acts of grace for the publike safetie already passed by him in this Parliament? especially the Acts against *Shipmoney*, and all other *unlawfull Taxes*; with the *Bils for the continuance of this, and calling of a Triennial Parliament*, when this shall be determined? Shall we yet be diffident of his Majesties sinceritie after so many Protestations, Promises, Imprecations; so many Pledges of his gracious affection to his people, and some publike acknowledgements of his former misgovernment and invasions on his Subjects Liberties? If all these Warrants will not content the Parliament, and perswade them to resigne up all the premises they have seised into his Majesties hand, to purchase the kingdomes much desired necessary Peace, and put a period to our destructive warre (in which there is nought but certaine ruine) what other security can his Majesty give or they expect?

Object.

* See all his Majesties late Proclamations, Protestations, and printed Declarations of this nature.

To answer this plausible allegation, I shall, without prejudice to other mens judgements, crave liberty to discharge my owne and others thoughts in this particular, in which if I chance to erre (out of overmuch zeale to my countries safety) I shall upon the first discovery professe a recantation; though for the present,

Answ.

* *Maluerim veris offendere, quam placere adulando.*

* *Seneca de Clementia, l. 2. c. 2.*

I shall reduce the summe of the answer to these two heads;

First, that as the state of things now stands, it will be (as many wise men conceive) not onely inconvenient, but dangerous, to resigne up the Militia, Forts, Ports, Navy, Ammunition of the kingdome into his Majesties sole disposing power, and those hands which himselfe alone shall appoint and confide in, till things bee throughly reformed and setled both here and in *Ireland*, and the Popish prevailing party in both kingdomes (now strongly up in armes) totally suppressed and secured.

Secondly, That till this be effected, it is more reasonable and safe, both for King and kingdome, that these should remaine in the Parliaments hands, then in the Kings alone.

For the first, there are these three generall reasons, generally alledged by many understanding men, equally affected to either party, and by most who are cordially inclined to the Parliament, why they deeme it not onely inconvenient, but perillous, to intrust the premises wholly with the King, and those of his appointment, as our condition now stands.

* *Anno* 1641, & 1642. See the Remonstrance of the Lords and Commons Novem. 2. 1642.

First, a more then probable long-since resolved designe in his Majesties evill Counsellors, to make him an absolute Soveraigne Monarch, and his Subjects as meere vassals, as those of *France*; which designe hath beene carryed on with an high hand from the beginning of his Reigne till this present, as the Parliament in * sundry

Declarations prove yea divers * *Lords* and *Members* of both Houses, though now with his Majesty, in their Parliamentary Speeches, have openly professed; which they thus demonstrate.

* Lord *Faulkland*, L. *Seymor*, L. *Digbey*, L. Savil, Sir *Jo. Culpepper*, Sir *Edward Deering*, Mr. *Holborne*, Mr. *Hide*, &c.

First, by his Majesties severall attempts against the *Priviledges, Power, and very being of Parliaments*; manifested by the proceedings against Sir *John Eliot*, Mr. *Hollice*, Mr. *Strode*, Mr. *Long*, and others, after the Parliament in 3. *Caroli*; and the Lord *Say*, Mr. *Crew*, with others after the last Parliament before this: By his Majesties sad ominous breaking off in discontent, all Parliaments in his Reigne (unparalleld in any age or kingdome) till this present; which though perpetuated by a speciall Act, as long as *Both Houses please*, hath yet long since been attempted to be dissolved like the former, by his Majesties accusation, and personall comming into the Commons House with an extraordinary Guard of armed men attending him, to demand five principall members of it, to be delivered up to his hands as Traytors, in an unpatterned manner. By his wilfull departure from, and refusall to returne unto the Parliament, though oft petitioned and sollicited to returne; which is so much the more observed and complained of, because his Majesty (if not his Royall *Consort* and the *Prince* too) was constantly present in person every day this Parliament (for sundry weekes together) at the arraignment of the Earle of *Strafford* for high *Treason*, in a private manner, when by Law he ought not to be personally present in a publicke; to countenance and encourage a capitall Oppressor, and Trayterous Delinquent against all his three kingdomes, contrary to both Houses approbation; And yet now peremptorily denyeth to be present with or neare his Parliament, to countenance and assist it for the preservation of his kingdomes against such Traytors, Rebels, conspirators, who have contrived and attempted their utter desolation, in pursuance of his foreplotted designes; By his commanding divers Lords and Commons to desert the Houses, and attend his Person without the Houses consent, detaining them still * when the Houses have sent for them: and protecting those who refused to returne, against the common justice of the Parliament: by casting divers grosse aspersions on it, and naming it, *A faction of Malignant, ambitious spirits, no Parliament at all*, &c. By raising an Army of Delinquents, Malignants, Papists, Forainers, to conquer and suppresse the Parliament, and deprive it of its Liberties; By proclaiming divers active Members of it, (specially imployed by Both Houses, for the defence of their severall Counties) *Traytors*, onely for executing the Houses commands, without any Indictment, Evidence, Conviction, against all Law, Justice, and the Priviledges of Parliament: By commanding, detaining the *Lord Keeper* of the Great Seale, (the Speaker of the Lords House) and some Judges from the House and City: By plundering divers Parliament mens houses, imprisoning their persons without Bayle, Maineprise, or Redemption, and laying intolerable taxations on their estates: By Declaring both Houses Traytors, if not in positive, yet at least in equivalent words, and by necessary consequence: By divers unparalleld violations of the Parliaments Priviledges by extrajudiciall Declarations out of Parliament, penned by Malignants in his Majesties name, and avowed by him, published of purpose to oppose, annull, reverse the solemne legall Resolutions, Declarations, and Votes of both Houses in sundry cases, and by name that against the Commission of *Array*: And finally by the manifold invectives in severall his Majesties Declarations, and Proclamations against the Parliaments Votes, Proceedings, Members; seconded

* See the Parliaments Remonstrance, Nov. 2. 1642.

ed with expresse commands, and invitations to the People, to * *Contemne its authority, and disobey all its Orders made without his personall consent; which is indeed nought else, but to nullifie Parliaments, to make them altogether contemptible, ridiculous, and trample them under feete*; and hath wrought a strong malignity, disobedience, if not disaffection, in many people to Parliaments, to the end they may never desire or enjoy them hereafter, notwithstanding the Act for trienniall Parliaments, when this is once dissolved. All these unparalleld, apparent high attempts against the very honour, essence, of this, and all other future Parliaments, (transcending both for quantity and quality all the violations of Parliaments Priviledges, in all his Majesties Predecessors Reignes, since *England* was a kingdome, summed up in one;) together with the late *Oxford Propositions* for an Accommodation; wherein the Houses finall Resolutions, Declaring what is Law, are called illegall, and required to be reversed; the power of imprisoning and fining men denyed, and prostituted to the censures, Writs, and Examinations of inferiour Courts, by way of *Habeas Corpus*; al high Violations and denials of the knowne priviledges of Parliament, contrary to his Majesties many former, and late Printed Protestations, and those Acts newly passed concerning Parliaments, (which will never recover their pristine dignity, honour, power, priviledges, if this should miscarry;) induce the most intelligent to opine, that his Majesty, long since weary of the yoke of all Parliaments, (the only *Remora* to his absolute intended Monarchy) and repenting of the Act for continuing this, since he hath gained his ends for which it was summoned, (more out of absolute necessity then love to Parliaments) to wit, peace with the *Scots*, for the present, by an Accommodation, wrought by this Parliament, & purchased with his Subjects mony, when as he saw no hopes of repelling them hence by force; & the paying of his then raised Army against them by the Parliaments free supply: is now resolved (in prosecution of his pristine Counsels) by force or policy to dissolve this Parliament in discontent, as he hath done all former, and that with such advantages of a generall ill opinion of Parliaments in the ignorant mis-informed vulgar on the one hand, and of a prevailing conquering power on his part on the other hand, as shall either utterly extinguish the hopes and Bill of summoning any future trienniall Parliamentary Assemblies, or at least so emasculate the vigour, and eclipse the power of them, if called; that they shall neither have courage, nor might, nor meanes to resist his foresaid grand designe, if he can now either by force or policy resume the *Militia, Forts, Navy, Ammunition* into his absolute dispose; the onely present obstacle (now his forces are so great) to gaine a compleate long-expected conquest over his peoples Liberties, Lawes, Estates, and all Parliaments Priviledges, if not beings too. And if our Parliaments (the onely Bulwarkes to protect our Lawes, Liberties, Estates, Lives, Religion, Peace, Kingdome, against the devastations of oppressing, lawlesse Princes, and Officers) be once conquered, or weakned in the least degree, we can expect no other issue, but that Tyranny, slavery, popery, shall be ere long entailed upon us and our Heires Soules and bodies for ever.

Secondly, By his Majesties frequent imposing of many unlawfull Taxes and Impositions on his Subjects, contrary to his Coronation Oath, the ancient Lawes of the Realme, yea his owne late Statutes, Declarations, Vowes, Promises; which designe hath beene carryed on with a strong hand all his Reigne till now; and at this present, with a farre higher hand then ever: which they exemplifie by the *Loanes*

* *Quid potest absurdius quàm ea quæ quamvis sint iniqua, tamen à plurimis esse debent: Non ideo parere necesse est, nec quantum jubetur, peccat.* Sen. de Clem. l. 2. c. 26.

with other *Taxes, Impoſitions, Grievances*, complained of in the *Petition of Right*, in the third yeare of his Reigne; which Act when firſt paſſed, with this his Majeſties ſolemne Oration and Proteſtation Printed with it; *I doe here declare, That theſe things which have beene done, whereby men had ſome cauſe to ſuſpect the Liberty of the Subject to be trenched upon, ſhall not hereafter be drawne into example for your prejudice: And in time to come* (IN THE WORD OF A KING) *you ſhall not have the like cauſe to complaine*: (backed with his Royall *Declaration* to all his *Subjects* at the breach of that Parliament to like purpoſe) made moſt men thinke, they ſhould never be grieved with illegall Taxes more; though the very annexing and Printing of his Majeſties two *Anſwers*, & this Speech when he paſſed the *Petition*, at the end thereof (with the Scope and matter of this Speech and other then concurring circumſtances) made the wiſeſt men ſuſpect, it was onely a baite to catch the * *Temporalties* and *Clergies* (five a peece) extraordinary *great Subſidies*, then aymed at, (a greater ayd then was ever before granted at once to any of his Majeſties Predeceſſors) and a policy then ſeemingly to content, but ſubſequently to delude the over-credulous impoliticke Vulgar; the verity whereof was at that inſtant much confirmed, by his Majeſties clayming (even in his very ſpeech when he paſſed the Petition of Right) *Tunnage and Poundage* as a meere right, and his taking it as a juſt duty *without grant by Parliament*, from his comming to the Crowne till then and ſince; by his extraordinary ſtrange commiſſion granted under the great Seale to divers Lords and others for the laying of an intolerable illegall exciſe, on all the Subjects throughout *England* and *Ireland*, ſeconded with the Commiſſion to *Dalbere* and others, for the rayſing and importing of *German Horſe*, and the billeting of *Iriſh* foot in ſundry places of *England* to joyne with thoſe horſe, to ſet on this exciſe, even at that very inſtant, when this *Petition of Right* was debated and paſſed; the breaking up of that Parliament as ſoone as theſe Subſidies were granted, and the unpatterned inundation of all kinde of unjuſt *Taxes* as ſoone as ever that Parliament was diſſolved; as *fines for Knighthood, New-buildings, Incloſures, exacted Fees*, (not to redreſſe, but authorize them by compoſitions to get money) *Shipmony, Monopolies of Tobacco, Sope, Brickes, Pins*, and a world of other particulars upon which annuall rents were reſerved: *Forreſt-bounds*, and offences proſecuted with all Rigour; Impoſitions upon *Coale, Beare, Salt, Wines, Tobacco*, and all kinde of Merchandiſe; *Lieutenants rates, and wages, Coat and Conduct money, exceſſive high Fines in Starchamber, High Commiſſion and other Courts*, with ſundry other Particulars complained off with open mouth in this and the preceding Parliament by moſt of the members of both Houſes, and divers now preſent with his Majeſty; who notwithſtanding the many publike complaints againſt theſe oppreſſions, the Acts this very Seſſion paſſed againſt them, and ſundry duplicated deepe Aſſeverations to maintaine the Subjects Property, Liberty, and governe onely according to Law; hath, and ſtill daily doth in a farre higher degree then ever (through the ill adviſe of Malignant Counſellors) proceed to afflict and ruine his people in this very particular of Property and Taxes, by weekely or monethly aſſeſſements and contributions impoſed on ſundry Townes and Counties where his Forces now lie, exceeding many mens racked incomes; his ſeiſing of their *Ammunition, Armes, Horſes, Carts, Goods, Proviſions, Houſes, Lands*, (yea huſbandmens Teemes and Horſes of their Ploughes, * *priviledged from diſtreſſes by Law*, & by moſt Nations though enemies, in times of warre from ſpoyle to plunder,) ſo as they

See 3 *Car. c.* 6, 7.

* *Artic. ſuper Chartas, c.* 12, See *Cookes* Inſtitutes on it. *Agricola apud Indos ſacri & a furto & præda alieni Diodorus &c. Bib. Hiſt. l.* 2. *n.* 40.

ley cannot till their ground, which must needs breed a famine: and stripping ma-; thousands of his people in *Brainford, Marleborough, Cicester*, and other places utterly sacked and ruined by his Cavaliers, of all their livelyhoods, and estates, to heir very naked skins; and carrying away those poore Subjects in triumph like Enemies and Traytors, who dare offer to defend their goods, houses, estates, or make any the least resistance, (*though the Lawes,* * *Common and Statute, allow them in such cases, not onely to resist, but kill all those who shall assault their houses, or persons to spoyle them of their goods*) or *protect them or their Liberties, Lives, Properties*, against his Army of theevish murthering Cavaliers. And which aggravates all the rest, his Majesty hath sent out such a *Commission* of *Array* to bee executed in every County, as pulls up libertie and propertie by the rootes; which, though both Houses by a speciall printed *Declaration*, have * *proved to bee illegall, contrary to the fundamentall Lawes of the Realme, the Petition of Right, and some expresse Acts passed this present Session*; yet his Majestie hath caused such an Answer to be published in his name to the first Declaration, as good Law, which * *frustrates all Acts whatsoever made in this or former Parliaments for the Subjects Libertie, Propertie; and layes downe such grounds, which will not onely justifie, but revive all former pressures and grievances whatsoever, as warranted by Law.* All which considered, together with the frequent endeavours formerly and of late to raise and keepe an Army on foote among us to enslave us, and raise what taxes shall bee arbitrarily imposed without a Parliament on the Realme by force of Armes, according to the late use of *France*, begun by *Strafford* in *Ireland*, and now set on foote in divers countries of *England*, makes wise moderate men feare, that if the *Militia, Forts* and *Navy* be yeelded up unto the King before the Subjects Propertie, and these violations of it in the highest degree (so that none at this day can truely say that any thing hee enjoyes, no not his Lands or Life are his owne) bee better setled, all propertie will bee for ever lost, and *Turkish* Subjects as free as *English*, in common probabilitie.

* Fitz.Corone. 192.194.258. 276.261. 21 H 7.39.24. H 8 c.5 Stamford, f.13,14. Cooke l 4.91, 92. See Math. Paris Hist. p. 264,265, 266.

* See the Parliaments second Remonstrance concerning the Commission of Array.

* See this fully proved in the Parliaments second Declaration,

Thirdly, the constant designe against the Libertie of the Subjects person (the better to invade the property of his goods) prosecuted all his Majesties time, and more then ever since the *Petition of Right* and this Parliament. The which is evidenced, by infinite illegall commitments of men for not paying the *Lone, Knight-mony, Ship-mony*, with sundry other unlawfull Taxes, without baile or mainprise; of sundry members of both Houses during this, and after former Parliaments ended, for things done in and triable onely by Parliament; by the exorbitant censures in the Star-Chamber and High Commission, and judging free men against Law, to close imprisonments; And that (which now grieves the very Soules of all *English* Spirits, who have any remainders of common humanity, in them, and would rend an heart of adamant) not onely by the strict close hard imprisonments of divers persons at *Yorke* and elsewhere, for executing the *Militia*, refusing the *Array*, or contribution Taxes, but by the more then *barbarous*, * yea *beastly crueltie* of his Majesties Cavaliers in chayning together in

* *Quae alia vita esset, si Leones ursique regnarent? Si serpentibus in nos, ac noxiissimo cuique animali daretur potestas? Illa rationis expertia, & a nobis immanitatis crimine damnata abstinent suis, & tuta est etiam inter feras similitudo: Apud Romanos tantum, nec a necessariis quidem rabies temperat sibi. Seneca de Clem. l. 2. c. 26.*

Ropes

Ropes ſundry Priſoners taken at *Brainford*, *Marleborough* and *Ciceſter*, (as the true printed Relations of theſe places ſacking teſtifie) like a company of *Turkiſh Gally-ſlaves*, (though ſome of them were Gentlemen of worth and quality, others Miniſters, others aged, ſickly, and many who never bore armes in theſe preſent warres) and leading them chained (almoſt naked, and barefoot) through deepe filthy wayes in the cold winter ſeaſon to *Oxford* in triumph (to his * *Majeſties great diſhonour*, and his Subjects griefe,)denying them, not onely meat and drinke, but even *water it ſelfe* (*the commoneſt Element*) to *quench their thirſt*, and keeping off, yea beating any ſuch at *Ciceſter*, and *Oxford*, who offered to bring them any ſuſtenance, though but a *drop of water to coole their tongues*: (O more then Turkiſh Barbarouſneſſe, that one man, one Chriſtian, one *Engliſh* Subject even in, or neare the preſence of his Soveraigne, ſhould thus ill intreate another, without any puniſhment or checke, much more with approbation!) After which they have beene * *ſhut up in priſons and dungeons* lying on the cold ground, ſtones or boards without beds, ſtraw, fire or any the leaſt refreſhment; allowed onely a poore pittance of *Adams* Ale, and ſcarce a penny bread a day to ſupport their lives, though their friends would provide it for them; in which ſad condition many of them are ſtill detained cloſe priſoners without bayle, mainpriſe, exchange, redemption, divers of them being dead of Famine and ill unaccuſtomed uſage: Others have beene murthered without mercy, and their * *Carcaſſes left unburied for the fowles to prey on*; others maimed and left weltring in their blood without any reliefe; others forced to live exiles from their habitations; and all for this new point of *High Treaſon*; that they ſtood upon their guard, to defend the propertie of their perſons, goods, houſes, poſſeſſions, from the robbery and plunder of theeving Cavaliers (*borne onely for the publike miſchiefe of the Reame) who now live by the Countries ſpoyle and robbery, and muſt not be reſiſted. If this proceeding be the ſo oft proteſted preſervation, the vowed defence of *the Subjects Liberties, Properties, Lives, the preſerving of them in perfect and intire peace and ſafetie* according to his Majeſties Coronation oath, the *governing of them according to the Law*, even whiles the Parliament ſits, and hath ſuch Forces in the field, the poſſeſſion of the Ports, Navy, and other premiſes in their hands (which if the King ſhould die without heire devolve wholly into the kingdomes hands and poſſeſſion, not to his Executors, as to the true proprietors of them, a ſtrong unanſwerable argument, they are not now the Kings but kingdomes in point of right and intereſt;) wee cannot (ſay many men) but ſuſpect the like and worſe uſages when theſe are all ſurrendred into his Majeſties power, and that he with his ill Counſellors (who had lately ſuch a bloody treacherous deſigne againſt *Briſtoll* during the Treaty of Peace, and now plainly profeſſe, * *that they never intended the Premiſes ſhould be put into ſuch perſons hands as the Parliament and kingdome might confide in*, but themſelves alone;) will then as much over-awe the preſent and all future Parliaments, as they doe now the country people where they quarter; and handle many active worthy members of both Houſes (particularly proclaimed rebels by the King without conviction, who hath not ſo violently proceeded againſt any of the *Iriſh* Rebels in this kinde, as he hath done againſt the houſes of Parliament, and the chiefe well deſerving members of it) as rigorouſly, if not far worſe, as any now impriſoned by them; notwithſtanding that true rule of * *Seneca*: *Remiſſius imperanti melius paretur. Et non minus Principi turpia ſunt magna ſupplicia, quam Medico multa funera.*

T

* *Nulli Regi gloria eſt ex ſæva animadverſione. At contra maxima, ſi vim ſuam continet, ſi multos iræ alienæ eripuit, neminem ſuæ impendit; Seneca de Clementia, l. 1. c. 17.*

* *Iſta frequens vindicta paucorum odium reprimit, omnium irritat. Regia crudelitas auget inimicorum numerum tollendo. Seneca de Clementia, l. 1. c. 8.*

* The Relation of the taking of *Ciceſter*, and the Priſoners Relation.

* *Quanto autem non naſci melius fuit, quam numerari inter publico malo natos? Seneca de Clementia l. 1. c. 18.*

* The Kings Letter on Saturday, *April.* 8. 1643 to the houſes.

* *De Clementia l. 1. c. 24.*

Their second generall reason is, an* *ancient fore plotted confederacie between the Popish and Prelaticall Party in the Kingdome to change Religion, and re-establish Popery.* Which designe hath been vigorously prosecuted long before his Majesties raigne, but more effectually since his marriage with one of that Religion; who in regard of her serenesse to, and continuall presence with him heretofore, and activitie to assist him now against his Parliament, hath such a meritorious interest in his affections, if not powerfull influence upon his will and Councells, as may induce his Majestie (as well as * King Salomon) to grant, at least a speedy publike long-expected tolleration and free use of the Romish Religion (if not a suppression of the Protestant faith) throughout the Realme, if all the premises be put into his Majesties unlimited power. And what which backes this more then conjecturall feare, is: First, the large visible progresse made in this designe before this Parliament, as not onely the Houses joynt Declarations, but divers Malignant Members *declamatory Orations*, (now with the King) testifie, together with our Prelates manifold Popish Innovations in Doctrines, Ceremonies, Ecclesiasticall proceedings; the Popes Nuncioes Residence neere, and free access to Court; our Agents residence at *Rome*; the Cell of Capuchins, Chapples erected for Masse, the infinite swarmes of Seminary Priests and Jesuites every where, with freedome and impunity, the suspention of the Lawes against them and Popish Recusants; the late persecutions and suppressions of all godly Preaching Ministers and most zealous Protestants, with other particulars clearely demonstrate. Secondly, the present generall Rebellion and bloody proceedings of the *Papists in Ireland*, to extirpate the Protestant Religion there; and the many prevayling Plots of the Irish Rebels party here, to delay, seize, or frustrate all ayde and opposition against them from hence: with his Majesties late Commissions to Papists and Protestants, and some who have beene in actuall Rebellion to treate and conclude a peace with these Rebells, contrary to the very Act he passed this Parliament for *Irelands* releefe. Thirdly, his Majesties late letter to the Councell in Ireland to exclude the Parliaments agents and members there from all their Councells and meetings; and if reports be credible, his Majesties Commissions lately issued to most notorious convicted Papists in * *Wales, Lancashire*, the *North* and other parts, *to arme themselves and raise forces under their Commands* (who are now in severall bodies in the field) *and his intertaining of divers Papists and Irish rebells in his Army to fight against the Parliament*, contrary to the expresse Lawes of the Realme; his owne frequent Proclamations and Protestations, *to entertaine no Papists neare him and to defend the Protestant Religion*: Which added to the intercepting of the Parliaments provisions for the releefe of the Protestants in *Ireland*, the entertaining of some of the Commanders sent to *Ireland* by the Parliament against the rebells, if not sending for some of them out of *Ireland* from that Service to warre against the Parliament; with the passes under his *Majesties* hand for the transporting of some Popish Commanders (since joyned with the *Irish* Rebells) into *Ireland*; make many jealous heads suspect, the common vaunt, of the *Irish Rebells*, * *that they have expresse Commissions both from the King and Queene to warrant their proceedings here, and that they fight but for them against the Parliament, Puritanes, and Parliament-dogs* (the Language of the Cavaleeres too, learned from them) are not onely possible, but probable; and that there is a generall designe on foote (towards which the Papists of forraigne parts, through the Priests and Queenes Negotiations, have made large contributions) by the Popish Armies now raised in both Kingdomes, to set up Popery in perfection every where, and extirpate the Protestant Religion in all our Kingdomes, which nothing but an absolute conquest of these blood-thirsty Papists can in

* See the Parliaments Declarations and Parliamentmens Speeches to this effect.

* 1 Kings 11. 1 to 12.

* See the Parliaments Remonstrances & Declarations to this effect.

* See Doctor *Jones* his book of *Examinations* published by *Order of both Houses.*

probability prevent, they being already growne ſo inſolent, as to ſay Maſſe openly in all the Northerne parts and Army, and in *Reading*, in affront of God and our Religion: If therefore the premiſes ſhould now be wholy ſurrendred to his Majeſtie, it is much to be feared, that the Popiſh party (now moſt powerfull) would in recompence of their meritorious ſervice and aſſiſtance in theſe warres, at leaſtwiſe challenge, if not gaine, the chiefe command of the Ports, Navie, Ammunition; the rather, becauſe the Lord *Herbert* (a moſt notorious Papiſt) both before and ſince this Parliament, enjoyed the ſole charge and cuſtodie of all the Military Engines and Ammunition royall at *Foxes Hall*, deſigned for the Kings chiefeſt Magazine; and then farewell Religion, Lawes, Liberties; our Soules and bodies muſt become either *Slaves* or *Martyrs*.

Their third generall ground, is the conſtant practiſe of moſt of our Kings (as *John Henry the* 3d. *Edward, and Richard the* 2d, with others) who after warres and differences with their Parliaments, Lords, Commons, upon accommodations made betweene them, as ſoone as ever they got poſſeſſion of their Caſtles, Ships, Ammunition, ſeiſed by their Subjects, brake all vowes, oathes, covenants made unto them, oppreſſing them more then ever; enlarging their owne prerogatives, and diminiſhing the Subjects Liberties, (yea taking away many of their lives againſt Law, Oathes, Promiſes, Pardons,) on purpoſe to enthrall them; which ſtill occaſioned new Commotions, as the premiſed Hiſtories and others plentifully informe us. And that the King (conſidering all his fore-mentioned proceedings, and pertinacious adhearing to his former evill Councellours and their Councells) ſhould degenerate from his predeceſſors Policies, in caſe the premiſes be yeelded wholy to him, before our Liberties and Religion be better ſetled, and the juſt cauſes of our feares experimentally removed, is hardly credible.

Object. But againſt theſe 3 Generall reaſons, his Majeſties many late ſolemne Proteſtations, and thoſe Acts which he hath paſſed this Parliament, are objected, as ſufficient ſecurity againſt all future feares: To which they anſwer.

Anſw. Firſt, that if his Majeſties Coronation Oath, *to preſerve his Peoples Liberties and Lawes of the Land inviolable*, have beene no ſufficient ſecurity to his Subjects hitherto, againſt all the fore-mentioned grievances and illegall preſſures: his verball Proteſtations and Promiſes are like to prove worſe aſſurance: If ſolemne Oathes be moſt apparently violated, what truſt can there be to unſwore words?

Secondly, our Kings in former times (as I have plentifully proved and infinite examples more declare) ſeldome or never kept either Oathes or Promiſes made to their Subjects; but have broken oath after oath, agreement upon agreement, with all verball legall ties; reputing them onely lawfull policies to over-reach their people, and effect their owne deſignes with greater advantage to themſelves, and prejudice to their Subjects. And ſhall we dreame of a new world, onely in this diſſembling age; when Kingcraft is improved to the utmoſt?

* At the end of the Petition of Right. * Concerning the breaking up of the Parliament, and before the 39. Articles of Religion.

Thirdly, we had his Majeſties * ſolemne Proteſtation, *in the Word of a King*, in the 3d yeare of his Raigne, backed with * *Two Printed Declarations* then, to all his *Loving Subjects, to maintaine the Petition of Right, their Lawes, Liberties, Properties, Religion in purity and perfection without the leaſt violation, or any connivance at, or back-ſliding to Popery*: And what good warrants or ſecurities theſe ſince proved to the Subjects to preſerve them from ſeverall inundations of oppreſſions, Taxes, grievances, Innovations and relapſes to Popery (which have flowed in upon them ever ſince as if theſe had beene no bankes to keepe them out, but ſluces onely to let them in the faſter) the

premiſes

premises manifest, and we all experimentally feele this day. And are the new Promises and Protestations (thinke you) better then the old? or those made this Parliament more obligatory to the King, or his evill Councellors, then those made the two last Parliaments, infringed in an nigh degree (even to the imprisoning, the searching of Peeres, of Commons Pockets, and studies against the Priviledges of Parliament) within few houres after they were published in Print? Are not the Subjects dayly taxed, imprisoned, plundered, murthered, the Priviledges of Parliament dayly infringed, many wayes? Protestants dis-armed, Papists armed, forraigne forces introduced, Irish Rebels privately countenanced, the greatest acts of hostility and cruelty exercised whiles treaties of peace are pretended? the best Iustices removed in all Counties, ill affected persons set up in their places; illegall Commissions of Array executed, justified, the best Protestant Ministers, people most robbed, pillaged, murthered, banished every where; Sheriffes illegally made, Subjects (even at *Oxford* where the king resides) more inhumanely handled under his Majesties view, than Gally-slaves in *Turkie*; and scarce one Declaration or Promise observed so much as the very day they are published? notwithstanding so many multiplications of them in Print; that people may the better take notice how they are broken, if they be observant? And shall the Parliament then take these so notoriously oft violated, never yet observed Protestations, for our Kingdomes onely substantiall security, to put all into his Majesties hands forthwith, before they see some reall performances and change of Councells? Certainely if they be so much over-seene, they are like to be so farre from mending our present condition, that they shall but make it worse, yea and betray themselves, with all that trust them, both for the present and posteritie.

But we have very good Lawes assented to by his Majestie this Parliament; for our *Object.* security too. True! but are they not spiders Webbs, and already undermined in action or intention? Doe they secure us in any kinde for the present, and will they doe it for the future? will time (thinke you) make them binding to the King, if they oblige him not, as soon as made? Did the Petition of *Right* 3° *Caroli*, (a most inviolable security as most then dreamed) secure the Subjects in the least degree against any publike wrong, so long as for one moneths space? Was it not turned into a kinde of wrong as soon as made, and ever since? Nay, were there not only sundry actions don, but Iudgments too in the very greatest Courts of Iustice, given against it, yea against the very letter and unquestionable meaning of *Magna Charta*, and other fundamentall Laws, by corrupted, or over-awed timorous Iudges? yea, are not most good Acts made this Session for the Subjects benefit, and all the Subjects Liberties at one stroke quite hewen downe and undermined by a pretence of Law it selfe, in his *Majesties Answer to both the Houses Declaration, concerning the Commission of Array? Quid verba audiam, facta cùm videam?* The meanest Latine Scholler knowes, that *verba dare*, signifies properly *to deceive*; and Subjects have beene oft deceived, even with Acts of Parliament. Now that all may see how invalid assurances Lawes are to secure the Subjects Liberties, though ratified with never so many confirmations, oathes, seales; I shall give you 2. or 3. ancient presidents. The first is that of * King *John*, who *Anno* 1214. confirmed *Magna Charta*, the *Charter* of the *Forrest*, and other Liberties with his hand, seale, oath, proclamations, the Popes Bull, solemne excommunications against the infringers of it, denounced by all the Bishops in his presence; by appointing 25. Barons, who by oath were to see and force him, and all others to observe it, by seising on his Castles, Lands, goods; and by resigning the custodie of his 4. chiefe Castles to the dispose of 25. Lords; whom all other Lords and Commons were bound to assist;

Answ.

* *Mat. Paris Hist p. 243. to 256 Daniel p. 143. 144. 845.*

yet in lesse than on halfe yeares space, these strongest obligations are all cancelled, these Gordians cut in sunder with the sword of warre, and the Subjects reduced to greater Vassellage than ever, as the premises evidence. So King *Henry* the 3d by oath sundry times successively ratified these Charters & the Subjects Liberties in Parliament, *which they oft dearely purchased with great Subsidies.* And * *An.* 1237. this *King* to gain a Subsidie of his Subjects, in a Parliament then assembled at *London*; *denyes that he ever intended to revoke the great Charter, and other Liberties, or laboured with the Pope to doe it*, with which the Barons truely charged him; and *that if any such thing had beene casually suggested to him, he did utterly null and revoke it*: and because he seemed not altogether free from the *sentence of excommunication*, which *Stephen* the Arch-bishop, with all the other Bishops of *England* had denounced against all the infringers of the great Charter, which he through ill Councell had in part infringed; he commanded them all in publike, to renew the said sentence against all contradictors of the sayd Charter, so that if he himselfe, through any conceived rancor, had not peradventure observed it, he might more grievously relapse into the said denounced sentence. By which meanes, and speech, he wonderfully reconciled to him the hearts of all that heard of these things, and suddenly causeth the Earles *Warren, and Ferrers, and John Fitz-Jeffry*, by *the Parliaments appointment, to be sworne his Councellors*; giving them this Oath; *That by no meanes, neither for rewards, nor any other cause, they should swarve from the way of truth, but should give good and wholesome Councell both to the King and Kingdome.* Whereupon they freely gave the King the 30th part of all their movable goods, except their gold, silver, horses and armes, to be spent on the good of the Republicke, with this condition often annexed; *that the King should leave the Councell of Aliens, and onely use the advise of his naturall Subjects*: Which Subsidie was ordered, to be collected by 4 knights, and one clerke in every County, and there layd up in some religious house or Castle, that if the King should receede from his promise and condition, every one might faithfully receive backe his owne againe. But no sooner was the Parliament ended, but the King breakes all his promises; shewes more favour to, and is more ruled by strangers then ever before; levies the subsidie in a stricter and farre other manner then was prescribed, and bestowes most of it on strangers to be transported; marrieth his sister *Eleanor* to *Simon Monfort*, (a new come *French* Exile, of meane fortunes) *Suorumque naturalium hominum consilius factus est extraneus & suis benevolis, Regnoque ac Republicæ nimis factus est cervicosus, ita quod per eorum consilium parum aut nihil de negociis Regni tractaret aut operaretur.* Which courses, with other, so incensed the Nobility, and generally all the subjects, as put them into a new commotion; which made him enter into new Articles and promises ratified with seales and Oathes, yet still infringed as soone as made. After this in the 37. yeare of his Raigne he ratified them in the most solemne and religious manner as Religion and State could ever devise to doe. * The King with all the great Nobility of *England*, all the Bishops and chiefe Prelates in their Pontificalibus, with burning Tapers in their hands assemble to heare the terrible sentence of Excommunication, and at the lighting of those candles, the King having one of them in his hand, gives it to a Prelate there by, saying: *It becomes not me* being no Priest, to hold this Candle, but my heart shall be a greater testimony; and withall layd his hand spread upon his breast, the whole time the sentence was read, in this forme. *We Boniface Arch-bishop of Canterbury, &c. by the Authority of God Almighty, and of the Sonne, and of the Holy Ghost, and of all Apostles, Martyrs, Confessors, Virgins, and all the Saints of God* (many of them there specially named) *doe excommunicate, assoyle and seperate from the Church of God*

*Mat. Par. Hist. Angl. p. 240. 421. 430. Dan. Hist. p. 157, 158

* *Mat. Par An.* 1253 1838. 839 *The Stat. at large. Dan. Hist p 169. Speed p. 718. Mat. Westm. Holinshed, Fab. Graf. An. 1253.*

God, all those who from henceforth, wittingly and willingly shall deprive or spoyle the Church of her rights: likewise all those, who by any art or cunning shall rashly violate, diminish or alter, privily or openly or by no dor deed or councell, shall rashly come against all or any of the ancient Liberties or approved customes of the Realme, and especially the Liberties and free Customes which are conteined in the Charters of the Common Liberties of England, and of the Forest, granted by our Lord the King of England, to the Arch-Bishops, Bishops Prelates, Earles, Barons, Knights and Free Tenants of England; likewise all them who shall make, or observe when made, any statutes, or introduce or keepe when introduced, any customes against them or any of them, together with the writers, Counsellors, and executioners of such statutes, and those who shall presume to judge according to them. In sempeternall memory whereof, we have thought meete to set our seales. And then throwing downe all their Candles, which lay smoking on the ground, every one cryed out; *So let every one who incurres this sentence be extinct in hell.* Then the Bells ringing out, the King himself solemnely swore and protested with a lowd voyce, with his hand upon his breast: *As God me helpe, I will faithfully and inviolably keep these things, as I am a Man, a Christian, a Knight, a KING CROWNED & ANOINTED.* Which done, *Robert* Bishop of *Lincolne* fore-thinking, that the King would violate the foresaid Charters, presently caused the like excommunication to be made in all his innumerable Parish Churches; which sentence would make mens eares to tingle, and their hearts not a little to tremble. * Never were Lawes amongst men (except those holy Commandments from the Mount) established with more majestie of Ceremony, to make them reverend and respected then were these: they wanted but thunder and lightning from heaven, (which if prayers would have procured, they would likewise have had) to make the sentence ghastly, and hideous to the infringers thereof. The greatest security that could be given, was an oath, and that solemnely taken; the onely chain on earth, besides love, to tie the conscience of man and humane Society together; which should it not hold us, all the frame and government must needes fall quite asunder. Who would have once imagined, that a man, a Christian, a Knight, a King, after such a publicke oath and excommunication, would ever have violated his faith, especially to his loyall Subjects? yet loe almost a miracle (though over-common among our Kings,) the very next words in my * Historian after this Oath and Excommunication, are these; *The Parliament being thus dissolved, the King PRESENTLY using ill Counsell, studied how to infring all the premises; these whisperers of Satan telling him; that he needs not care though he incurred this sentence, for the Pope for one or two hundred pounds will absolve him, who out of the fulnesse of his power can loose and binde whatsoever he pleaseth, &c.* which the Pope soone after did; and the King returned to his former oppressive courses, more violently than before. Well then might the royall Prophet give us this divine caution, * *O put not your trust in Princes: * Surely, men of high degree are a lye; to be layd in the ballance they are altogether lighter then vanity*, both in their oathes and promises. Hence * *Isable* Countesse of *Arundle*, a well spoken Lady, receiving a repulse from this Kings hands about a Ward, whereto she conceived she had right, the King giving her a harsh answere, and turning from her, sayd thus to his face: O my Lord King, why turne you away your face from justice, that we can obtaine no right in your Court! You are constituted in the midst betweene God and us, but you neither governe your selfe nor us discreetely, as you ought. You shamefully vex both the Church and Nobles of the Kingdome by all wayes you may, which they have not only felt in present but often heretofore. The King fired at so free a speech, with a scornefull angry countenance, and lowd voyce answered: "

* *Daniel*, p. 169.

* *Math. Paris* p. 839.

* *Psal.* 146. 3. *Psal.* 62. 9.

* *Math. Paris* p. 825. 826. *Speed* p. 627. 628. *Daniel* p. 167. 168.

'What, my Lady Counteſſe, have the Lords of England, becauſe you have tongue at
'will, made you a Charter, and hired you to be their Orator and Advocate? Whereun-
'to ſhe replyed: Not ſo my Lord, they have not made any Charter to me; but that
'Charter which your Father made, and which your ſelfe have oft confirmed, ſwearing
'to keepe the ſame inviolably and conſtantly, and often extorting money, upon pro-
'miſe, that the liberties therein conteined ſhould be faithfully obſerved, you have not
'kept, but without regard to honour or conſcience broken; Therefore are you found
'to be a manifeſt violater of your faith and Oath. Where are the liberties of England,
'ſo often fairely ingroſſed? ſo often granted? ſo often bought? I, though a woman,
'and with me all the naturall and loyall people of the land, appeale you to the Tribu-
'nall of that high Iudge above, and heaven and earth ſhall be our witneſſe, that you have
'moſt unjuſtly dealt with us, and the Lord God of revenge, avenge and right us.
'The King diſturbed at theſe words asked her; If ſhe expected not to obtaine her
'ſuite upon favour, ſeeing ſhe was his kinſwoman? Whereunto ſhe anſwered. How
'ſhall I hope for grace, when you deny me right? Therefore I appeale before the face
'of Chriſt againſt thoſe Councellours alſo of yours, who gaping onely after their own
'gaine, have bewitched and infatuated you. I wiſh none had cauſe at this very ſeaſon
'to make the like appeales. As boldly, though in fewer words, is he reproved by the
*Matthew Paris. p. 826. 827. Daniel p. 168.
'* Maſter of the Hoſpitall of Hieruſalem, in *Clarken-well*, who comming to complaine
'of an injury committed againſt their Charter, the King told him; The Prelates, and
'eſpecially the Templers and Hoſpitalers, had ſo many Liberties and Charters, that
'their riches made them proud, and their pride mad; and that thoſe things which were
'unadviſedly granted, were with much diſcretion to be revoked; alleaging, that the Pope
'had often recalled his owne grants, with the clauſe, *Non obſtante*; and why ſhould not
'he caſhiere thoſe Charters inconſiderately granted by him, and his Predeceſſors? What
'ſay your Sir? (ſayd the Prior) God forbid ſo ill a word ſhould proceed out of your
'mouth: ſo long as you obſerve juſtice you may be a King, as ſoone as you violate the
'ſame, you ſhall ceaſe to be a King. To which the King inconſiderately replied. O what
'meanes this! you Engliſhmen, will you caſt me downe from the Kingdome as you
did my Father, and kill me being præcipitated? I could inſtance in diverſe like viola-
tions of *Magna Charta* and other good Lawes immediately after their making and
* See *Conſtit. Concil. de Reding. cap. de ſentent. excom. public. in Iohn de Aton. f. 131.* ratification with ſolemneſt Oathes and * excommunications, both in King *Edward* the
1. and 2. and *Richard* the ſeconds raignes, which becauſe elſewhere lightly touched I
ſhall pretermit; concluding onely with one preſident more, in one of our beſt and
juſteſt Princes raignes, King* *Edward* the third, in whoſe reigne even then when by
ſpeciall Acts, there was not onely a trieniall Parliament but an annuall to be held; and
ſometimes 4. or 5. Parliaments held every yeare, and *Magna Charta* uſually firſt con-
* *Daniels Hiſtory* p. 260. firmed by a new Law in every one of them, yet we ſhall finde not onely frequent
complaints of the breaches of it, but * many new Lawes one after another, enacted,
* 5 E. 3. c. 9. 25. 15. E. 3. *Stat.* 1. c. 2. 3. 25. E. 3. *Stat.* 5. c. 4. 28. E. 3. c. 3. 37 E. 3. c. 8. 38. E. 3. c. 9. 42 E. 3. c. 3. to prevent and puniſh the violations of it; and yet all to little purpoſe, as thoſe Acts
declare, and our late, yea preſent times atteſt: and which is very obſervable; when
King *Edward* the 3d in the firſt Parliament, in the 15. yeare of his Raigne, had ordai-
ned and eſtabliſhed divers good Statutes, which he willed and granted FOR HIM
& HIS HEIRES that they ſhould be FIRMELY KEPT & HOLDEN FOR
EVER, for the ratification of *Magna Charta*, and better obſerving other good Lawes;
and enacted, That the Chancellour, Treaſurer, Barons of the Exchequor, Iudges, and
all other great Officers of the Kingdome ſhould then for the preſent in Parliament,
and for ever after take a ſolemne Oath before their admiſſion to their Offices, to keepe

and

and maintaine the points of the great Charter, and the Charter of the Forrest, and all other Statutes, without breaking any one point; No sooner was that Parliament dissolved but the very same yeare, he publikely * revoked those Statutes: pretending *That they were contrary to the Lawes and Customes of the Realme, and to his Prerogatives and Rights Royall, all which he by his Oath was bound to maintaine; Wherefore willing providently to revoke such things, which he so improvidently had done. Because* (saith he, marke the dissimulation of Princes even in Parliaments) *We never really consented to the making of such Statutes, but as then it behoved Vs, WEE DISSEMBLED IN THE PREMISES: by Protestations of revocations, if indeed they should proceed* to secure the Dangers, *which* By the Denying of the same we feared to come, *for as much as the said Parliament otherwise had beene without any expedition, in discord dissolved, and so our earnest businesse had likely ceased, which God prohibit in time. And the said pretensed Statute, we promised then to be sealed; But sithence the Statute did not of our owne free will proceed, it seemed to the Earls, Barons, and other wise men, with whom wee have treated thereupon, That same* should be voide, and ought not to have the Name nor Strength of a Statute: *And therefore by their Counsell and Assent* We have Decreed the said Statute to be void, *and the same in as much as it proceeded of deed we have brought to be annulled. And the same we doe onely to the conservation and redintegration of the Rights of our Crowne, as we be bound, and not that we should in any wise aggravate or oppresse our Subjects whom wee desire to rule by lenity and gentlenesse.* And thus his *Stablishing of these Lawes, for Him and his Heires, firmely to be holden and kept for ever,* was turned into an estate at will, determined as soone as granted. By which pretence of *Dissimulation,* of a consent to Acts, yet not free, but fained onely to accomplish his owne ends, and of preserving and redintegrating the Rights of the Crowne; how easily may any King, (and how oft have many Kings, actually, though not Legally) invallid and nullifie all Acts they have passed for the Subjects benefit, as soone as they are made by Parliaments? What weake assurances then are Lawes alone, to binde Princes hands, or secure Subjects Liberties, let all wise men judge.

* *The Revocation of this Statute made 25 Ed. 3. in the Statutes at large.*

If then the ignorant vulgar will be deceived with these specious fruitlesse Protestations, and the bare grant only of some good Laws (already highly violated) without any apparent intention to observe them; yet most presume the great Counsell of the Kingdome (which in so many printed *Declarations* hath informed the Subiects of the premises, to make them cautious, and vigilant against all such circumventions) wil not be so easily over-reached, and find better assurances before they trust too far.

Fourthly, admit (say some) His Majesties Protestations and Promises upon the hoped accommodation should be reall, (which the sending abroad of his Forces, West, South, North, at this very instant of Treating makes most doubt,) yet the sway of ill Counsellors about him, more prevalent with, more trusted by him, at this present then his grandest Counsell, the Parliament: the Potencie of the Queene, the great merits of her Grace & Papists (who will not be more modest with the King, then they are with God himselfe, in challenging rewards *ex debito,* for service done unto him) the deserts of divers Malignants about the King, who will challenge all places of trust from his Majestie, as a just reward for their faithfull service; as they did in *Henry* the 3d. his raigne, when * *Mathew Paris* complained, and the whole Kingdome with him, in this manner, *Judicia committuntur injustis leges exlegibus, pax discordantibus, justitia injuriosis, &c.* Who when they have all power and offices shared among them, will be apt to meditate and act revenge on the primest of their

* *Hist. Angl.* P. 374.

Parli-

Parliamentary Oppoſites, to oppreſſe and fleece the Subjects to repaire their loſſes, their expences in this warre, or their poore decayed fortunes. All theſe with other ſuch like probable ſubſequent conſiderations, may iuſtly plead the inconvenience, and great danger to Parliament and Kingdome, to make an abſolute preſent ſurrender of the *Militia*, Forts, Navie, ammunition into ſuch untruſty hands, as are likely to turne them all againſt them, and to prooue miſchcivous, if not pernicious, unto both, for the premiſed reaſons; * *Peſtifera vis eſt valere ad nocendum*; eſpecially if it be in Malignant hands. And here, to avoyd all miſinterpretations of this impartiall diſcourſe, I ſeriouſly proteſt; that as I heartily deſire and conſtantly endeavour a ſpeedy, ſafe, cordiall vnion between King, Parliament, People; ſo have I moſt unwillingly been neceſſitated to repeat the premiſed objections, much feared deſignes, and experimentall contradictions betweene many late Proteſtations and actions, (frequent in Parliamentary Declarations, new printed Pamphlets, and moſt mens mouthes;) not out of any diſloyall ſeditious intention (as ſome will malicioufly miſ-conſter it) to ſtaine his Maieſties Reputation with his people, and make the breach betweene them incurable, that they may never truſt one another more; but onely faithfully to demonſtrate to his Highneſſe and all about him, the great diſſervice and impoliticke pernicious adviſe of thoſe ill Counſellors, who have moſt unhappily engaged him in ſuch pernicious proiects and frequent repugnances of workes and words, as have given both Parliament and people, a more then colourable, if not iuſt occaſion to diſtruſt his Maieſties gracions words and promiſes for the preſent, till they ſhall viſibly diſcerne them, more punctually obſerved, and reallized for the future; and made them ſo unhappy on the one hand, that now they dare not truſt his Majeſty ſo farre forth as they deſire, out of a provident care of their owne future ſecurity; and His Highneſſe ſo unfortunate on the other hand, as to grow jealous of their Loyalties, becauſe they will not confide in his Royall Faith and Proteſtations, ſo farre as he expects, out of a care to preſerue his owne Kingly Honour. In this unhappy diffidence (occaſioned onely by His Majeſties evill Counſell) betweene King and Kingdome, a reall future renouncing of all forenamed ſuſpected deſignes, and actuall performance of all Regall promiſes, will be the onely meanes to cure all Ieloufies, baniſh all feares, remove all diffidences; and beget an aſſured truſt, firme peace, and laſting unity betw.en King and Subjects, to their mutuall unexpreſſible felicity; which I ſhall dayly imprecate the *God of Peace* ſpeedily to accompliſh. But to returne to the matter in hand.

* *Seneca De Clemencia* l. 1.

Secondly, It is conceived by many indifferent men, to be farre more reaſonable and ſafe both for King and Kingdome (as things now ſtand) that the *Militia*, Ports, &c. till our feares and jealouſies be quite removed, ſhould remaine in the Parliaments hands, then in the Kings alone: which they thus demonſtrate.

First, Becauſe all theſe * *are the Kingdomes right, property, uſe*; not the Kings; Who being but the Kingdomes Royall publicke Servant, may with Honour and better reaſon deliver up the Cuſtody of them to the repreſentative Body of the Kingdome for a ſeaſon, then detaine them from them, when they require it. Secondly, Becauſe the Parliament is the Superiour Soveraigne power, the King but the Miniſteriall; and it is more rationall and juſt, that the inferiour ſhould condiſcend to the greater Power, the Miniſteriall to thoſe hee ſerves, then they to him. Thirdly, Many men of Honour and fidelity are more to be truſted and credited, then any one man whatſoever, becauſe not ſo mutable, ſo ſubject to ſeduction, corruption, errour, or ſelfe-ends as one, or very few. This is the true reaſon, there are many Iudges in all

* See the Remonſtrance of the Lord and Commons, *May* 26. 1642 and *Novem.* 2. 1642.

Courts

Courts of Justice; most select Members in the highest Court of all, the Parliament, (as there * *was in the Roman Senate*, in Foraigne Parliaments, in National and Generall Councels; because Courts of greatest trust and power) many being more trusty and judicious then one, or a few; Whence *Salomon* doubles this resolution, * *In the multitude of Counsellors there is safety*; yea, * *two* (saith he) *are better then one*, in point of trust; whence wise men of great estates make many Feoffees, or Executors, and seldome doe confide in one alone. The Parliament therefore being many, and the King but one, are most to be confided in by the Kingdome. Fourthly, Kings have frequently broke their Faith and Trust with their Parliaments and Kingdomes; Parliaments seldome or never violated their trust to King or Kingdome; therefore its more just, lesse dangerous for King and Kingdome to trust the Parliament, then the King.

* See Plutar Numa Pom: Tulius Hostil. l. 2. Bodin Com Weale l. 3. c. 1.
* Prov. 11. 14. 15. 22. c. 24 6.
* Eccles 4. 9. 10 13.

Fifthly, The Parliament is elective, consisting for the most part of the principall men in every County, City, Burrough, in whom the people who elected them, most confide; The King successive, not Elective. Therefore not so much confided in by the Kingdome, as the Parliament. Sixthly, The Parliament being the great Counsell both of King and Kingdome, consisting of the ablest men of all Counties; is better able to judge and make choyce of fit persons to manage and keep the premises for the publike safety, then the King alone, without their advise. Seventhly, The Parliament heretofore hath elected the greatest Officers of the Kingdome, (yea the King himselfe, when the Title to the Crowne hath been doubtfull, the inheritance and discent whereof hath *in all or most Princes raignes*, * *beene constantly guided and setled by the Parliament*, as I have formerly proved) because it most concernes the weal or woe; the peace & safety of the Realme to have trusty Officers; Therefore by the selfe-same reason they should for the present appoint all Officers for the custody and ordering of the Premises. Eighthly, The Kings trusting the Parliament with these things for a convenient time, will be the only meanes to remove the peoples feares, prevent their dangers, quiet their mindes, beget a perfect unity and amity between King, Parliament, Subject, and prevent all future differences: whereas the present resigning of them to his Majesties trust and power, will but augment their jealousies, feares, dangers, discontents; and neither pacifie former differences, nor prevent future, but rather perpetuate and beget them; especially if any notorious Papists, Malignants (the likelyest men to be imployed under his Majesty) be trusted with any of the premises, which will endanger both Liberties and Religion; of which there will be no feare at all, if the Parliament and such as they shall nominate be the onely Trustees. In fine, If neither King nor Parliament dare trust one the other alone with the premises, and it is neither Royall, nor Honourable as many believe for the King to trust the Parliament now alone, with these, who in their * *Declarations* never desired, but professed the contrary, that the chiefest *command of the Militia when indifferent Officers were appointed, should still reside in his Majesty, in as ample manner as before*; there is no other equall, honourable, just, impartiall, probible way left to secure or accord both parties in this particular, but onely to commit the premises for a convenient time, to the custody of such trusty persons, nominated by the Parliament to the King, or by the King to the Parliament, as both sides joyntly shall allow of, and by a speciall Bill to prescribe them such an Oath, as shall oblige them, to keep and imploy them onely for the joynt use of King,

* See 7. H. 4. c. 2 26 H. 8. c. 22. 28. H. 8. c. 7 35. H. 8. c. 1. 1 Eliz. 2. cap. 1. Cooke 8. Report: The Princes Case.

* Novem. 2. 1642. and May 26. 1642.

Kingdome, and Parliament, by the joynt direction of King and Parliament, and not by the single warrant or command of either of them, whiles this Parliament continues; Vnder paine of High Treason, both against the King and Kingdome.

I shall close up this obiection with the words of *Seneca*, * *Securitas securitate mutua paciscenda est: Errat enim si quis existimet tutum esse Regem, vbi nihil a rege tutum est. Vnum est inexpugnabile munimentum, Amor Ciuium*; which the King shall then be sure of, when he takes up this resolution; *Non rempublicam suam esse, sed se Reipublicæ:* and shall really trust the Kingdome and Parliament as much, as farre forth, as he expects or desires they should trust him.

* *De Clementia l. 1. c. 19.*

The

The Parliaments Right to Elect Privie Counsellors, Great Officers, and Judges.

Object. 3.

THe third grand Complaint of the *King and Royalists*, against this Parliament is: [a]*That they take upon them a power to recommend and nominate to the King his Privie Councellors, Judges, with other great Officers of State; demanding, that none of them may hereafter (especially during Parliaments) be ordained by his Majestie, but by their Nomination or advice.* A great affront, an intollerable encroachment on the Prerogative Royall, as is pretended.

[a] See his Majesties Answer to the Parliaments first Propositions, with other Declarations and Treatises on his part.

This lowd clamor against the Parliament, if seriously examined, will speedily vanish into nothing. For; first, it is [b] *already* cleared, ([c] and *Fortescue* so resolves) That Kings themselves (the highest Officers and Iusticiars in their kingdomes) were [b] created and elected at first, by the free generall voices of their people; from whom also they received all their Royall Authoritie, having still no other, nor greater lawfull power then they conferred on them, (onely for the defence of their Lawes, persons, Liberties, Estates, and the Republiques welfare:) which they may regulate, augment, or diminish, for the Common good as they see just cause. Therefore doubtlesse the [d] people who thus created and elected their Kings at first, did likewise constitute, and elect all publike Councellors, Officers, Iudges, Ministers of the State, giving both being and bounds to their severall Offices and Iurisdictions by publicke Lawes; which is most apparent not onely in the [d] *Roman*, [e] *Lacedamonian and other Kingdomes*, but our owne too, *by infinite Acts of Parliament* creating, regulating and limiting the power and proceedings not onely of our Kings, but of their Counsellours, Chauncellors, Treasurers, Keepers of the Great Seale and privie Seale, high Stewards, Admiralls, Marshalls, Masters of the Horse, Presidents of the Marches, and of York, Masters and other Officers of the Court of Wards, Iudges, and Iustices of all Courts, all kinds; Sheriffs, Coroners, Customers, Searchers, Escheators, and all other Temporall or Ecclesiasticall publicke Officers: the right of whose elections remaining originally in the kingdome, and Parliament representing it, was never yet irrevocably or totally transferred by them to the King, by any publicke acts that I have seene: and therefore when they see just cause, they may make use of this their primitive inherent right of Election, without any reall incroachment on the Kings Prerogative.

Answ. 1.

[b] Page 17. 18. 19.

[c] *De Laudibus Legum Angliæ c.* 13. 14.

[d] *Livy. Hist. l.* 1. 2. 3. *Dionys. Hal. Antiq. Rom. l.* 2. *&* 3. *Polybius; Hist. l.* 6. *Bodin, Commonwealth. l.* 1. *c.* 10.

[e] *Arist. polit. l.* 2. 3. 5 *Xenophon. de Lacedam. Republica; Diodorus Sic. Bib. Hist. l.* 2. 3.

Secondly, I have already proved, that the [f] Heretochs, Leiutenants Generall, and Sheriffs (as likewise the Conservators of the Peace) in every County through the Realme, were anciently elected onely by the Parliament and People, not the King, (though they had the custody, power, Command of the whole County,) without any impeachment to the Prerogative Royall; why then may not these other publicke Officers of the estate be thus nominated and chosen by the Parliament likewise, without any just exception or offence?

2.

[f] *Cookes Inst. on Magna Charta l.* 174. 175. 558, 559. 566.

Thirdly, All [g] Coroners, Majors, Sheriffs, Baylifs, Aldermen, Recorders of *London Yorke, Bristoll*, and generally of all Cities, Townes, and Burroughs throughout the Kingdome (which have the chiefe Government of these Corporations) Verderers of the Forrest, Constables and other officers, have ever anciently, and are still at this day elected onely by the People, not the King: Yea all Arch-bishops, Bishops, Abbots, Priors, with other Ecclesiasticall Officers, who were formerly Peers and members of the Parliament, and Rulers in the Church, were anciently chosen, not by the King

3.

[g] *Cook. Ibid.* 284. 3. *c.* 6. *No. Nat. Br.* 163. 164. *Register part.* 1. *f.* 177. 178. *Stamford. l.* 1. *c.* 51. *f.* 49. *Brooke Corporations Kitchin f.* 47. 48.

himſelfe, but onely by the Clergie and people, as ſundry [h] *Preſidents* and [i] *Statutes* manifeſt, and the *Congè d'eſliers* at this day for the Election of new Biſhops, more then intimate: and all this without the leaſt violation of the Kings Prerogative: why then may not the Parliament nominate all thoſe publike Officers to the King by Parallell Reaſon, without Eccliplſing his Prerogative?

Fourthly, The Knights, Citizens, and Burgeſſes of the Kings and Kingdomes greateſt Court and Councell, the Parliament, (the [k] ſupreameſt Counſellors and Iudges of all others, to whom all other Courts, Counſellors, Officers, Iudges, are reſponſible for their actions, Iudgements, advice;) have alwayes of right beene, and yet are elected onely by the Free-holders and Commons of the Realme: yea all the members of the Lords houſe, though ſommoned thither by the Kings Writ, and not elected; ſit there of right (not of grace, or the Kings free choyſe) by the fundamentall Lawes and Conſtitutions of the Realme; neither can the King by his abſolute Prerogative, elect any member of the Commons Houſe, or exclude any member of it, or Peere of the Upper Houſe (who by vertue of his Peerage ought to ſit there) without the Houſes conſents: for then, if he might elect, or exclude one, he might likewiſe chuſe and ſeclude more, yea moſt of them, by like reaſon, at his pleaſure; and ſo ſubvert the ſubjects Priviledges, and by a Packed Parliament impoſe what Lawes or Taxes he would on his people, to their ſlavery and ruine. Which freedome of the ſubjects Election, and all Lords Summons is ſo eſſentiall and neceſſary to Parliaments, that the Parliaments of 21 *R.* 2. at *Weſtminſter*, and of 38. *H.* 6 at *Coventry*, were by the Parliaments of 1. *H.* 4. c. 3. 4. N°. 21. 22. and 39. *H.* 6. c. 1. *adjudged and declared to be voyd and no Parliaments at all, but unlawfull, yea deviliſh Aſſemblies, and Ordinances*, for this very Reaſon; *becauſe in the firſt of them, the Knights were not duly elected by the Commons according to Law and cuſtome, but by the Kings pleaſure; and the Lords onely of the Kings party, (contrary to right and reaſon) ſommon'd to it*: (by meanes whereof, Will, therein ruled for reaſon, men alive were condemned without examination; men dead and put in execution by privie murther, were adjudged openly to dye, others baniſhed without anſwer, an Earle arraigned, not ſuffered to plead his pardon, &c.) and becauſe the latter of them by [m] *divers ſedi ious evill-diſpoſed perſons about the King, was unduly ſommoned, onely to deſtroy ſome of the great Nobles, faithfull and Lawfull Lords, and other faithfull leige people of the Realme out of hatred and malice, which the ſayd ſeditious perſons of long time had againſt them: and a great part of the Knights for divers Counties of the Realme, and many Burgeſſes and Citizens for divers Burroughs and Cities appearing in the ſame, were named, returned, and accepted, ſome of them without due and free Election, ſome of them without any Election by meanes and labour of the ſayd ſeditious perſons, againſt the courſe of the Lawes, and Liberties of the Commons of the Realme whereby many great* Ieopardies, Enormities, and Inconveniences, wel-nigh to the ruine, decay, and ſubverſion of the Realme, enſued. If then the grand Councellors and Iudges of this higheſt Court are and ought to be elected onely by the Commons, not the King becauſe they are to conſult, and make Lawes for the Kingdomes welfare, ſafety, government, in which the Realme is more concerned then the King; and *Biſhops, Abbots and Priors likewiſe, whiles members of the Lords Houſe of Parliament were choſen by the Clergie, People, Commons* not the King: by ſemblable, or better reaſon, the whole State in Parliament when they ſee juſt cauſe, may claime the nomination of all publike Officers of the Kingdome, (being as much or more the Kingdomes Officers as

[h] See *Antiquit. Eccle. Brit. Godwins Cat.* of Biſhops and Antiquities, *Eadmerus Hiſt Novell* p. 34. 36. 50 71. 97. 109. 111 112. 131. 132. *Mulmſ. de Geſtis, Pontif.*

[i] 25. E. 3. Par. 6. 9. H. 4. c. 8. 13. R. 2. *ſtat.* 2. c. 2.

[k] 15 E. 3. c 3. 4. 5. *Stamford Iuriſ.* of Courts, f. 1. to 10. *Raſtal* Parl and the Statuts there cited.

[l] *Stamford Ibid. Modus tenendi Parliamentum, Cambdens Brit. p.* 176. 177. *Sir Tho. Smiths* Common-wealth. l. 2. c. 1. 2. *Holinſhed & Vowell* Deſcription of England, c. 8. f. 173. *Chron. of Ireland, f.* 147. 128. *Mirror Diſt. Tit. Parli. Cookes, Inſtit. on Litt. f.* 109 114. & 9. *Report. Epiſt. Dedicatori.*

[l] Mr *Saint Iohns* Speech againſt *Ship-money, p.* 33. *Speed. p.* 761. 763. *Halls Chron. f.* 10, 11, 12. *Fabian* part 7. p. 173. to 179.

[m] 39. *H.* 6. c. 1. *Hals Chron.* 39. *H.* 6. *f.* 182. *Grafton p.* 647.

the Kings, and as [n] responsible to the Parliament as to the King, for their misdemeanors in their places) without any diminution of the Kings Prerogative.

[n] 15.E.3.Stat. 3.4.5.

Fiftly, the Parliament consisting of the most [o] Honorable, Wise, Grave, and discreetest persons of all parts of the Kingdome, are best able clearely and impartially to Iudge, who are the fittest, ablest, faithfullest, most deserving men to manage all these publike Offices for the Kings, the Kingdomes honour and advantage, better then either the King himselfe, his Cabinet-Counsell, or any unconsiderable Privadoes, Courtiers, Favorites; (who now usually recommend men to these places more for their owne private ends and interests, then the Kings or Kingdomes benefit;) therefore it is but just and equitable that they should have the principall nomination and recommendation of them to the King, rather than any others whomsoever; and that the King should rather confide herein to their unbiassed Indgements, then to his most powerfull trustiest Minions; who would out the Parliament of this just priviledge, that they might unjustly engrosse it to themselves; and none might mount to any places of publike trust, but by their deare-purchased private Recommendations; the cause of so many unworthy, untrusty, corrupt publicke Officers and Iudges of late times, who have (as [p] much as in them lay) endeavoured to enslave both us and our posterities by publike illegall Resolutions against their oathes and Consciences.

[o] See the Precfaces of most ancient Statutes in *Ed.* 1. 2 3.4. *Rich.*2. *H* 4.5.6 & 7. reignes, *Cromptons Iurisd. of Courts f.* 1.to 7. The Writ of Election, 15.*E*.3.c 3. 4.5.

[p] See Mr. *St Johns* speech concerning Ship-money: 1640.

Sixthly, Though our Kings have usually enjoyed the choyce of Iudges and State Officers, especially out of Parliament time; yet this hath beene rather by the Parliaments and Peoples permissions, then concessions, and perchance by usurpation, as appeares by Sherifes and Lieutenants of Counties Elections, now claimed by the King, though anciently the Subjects right, as I have proved. And if so, a Title gained onely by Connivance, or Vsurpation, can be no good plea in Barre against the Parliaments Interest, when there is cause to claime it: however; the Kings best Title to elect these publike Officers, is onely by an ancient trust reposed in his Predecessors and him, by the Parliament and kingdome, with this *tacit condition* in Law (which * *Littleton* himselfe resolves is annexed to all Officers of trust whatsoever) that he shall well and lawfully discharge this trust, in electing such Counsellors, Officers, and Iudges as shall be faithfull to the Republicke and promote the subjects good and safety. If then the King at any time shall breake or pervert this trust, by electing such great Counsellors, Officers, and Iudges as shall willingly betray his Subjects Liberties, Properties, subvert all Lawes, foment and prosecute many desperate oppressing Projects to ruine or inthrall the Kingdome, undermine Religion, and the like (as many such have beene advanced of late yeares;) no doubt the Parliament in such cases as these, may justly regulate, or resume that trust so farre into their owne hands, as to recommend able, faithfull persons to these publike places, for the future, without any injury to the Kings Authority. It was a strange opinion of *Hugh Spencers* (great favorites to King *Edward* the second) which they put into a Bill in writing [q] *That homage and the Oath of Allegiance is more by reason of the Crowne, then by reason of the person of the King, and is more bound to the Crowne then to the person; which appeares, because that before the descent of the Crowne, no Allegiance is due to the person. Therefore put case the King will not discharge his trust well, according to reason in right of his Crowne, his Subjects are bound by the Oath made to the Crowne, to reforme the King and state of the Crowne, because else they could not performe their Oath.* Now it may (say they) be demanded, how the King ought to be reformed? By suite of Law, or by asperity? By suite at Law, a man can have no redresse at all, for a man can have no Iudge, but those who are of the Kings party: In which case, if the will of the King be not according to reason,

* Chapter of Estates upon Condition, *sect.* 378 379. and *Cookes Instit. f.* 378. 379.

[q] See *Exilium Hugonis le Despenser old Magna Charta* 18. part. 2. f. 50.51. *Cooke l.*7. *Calvins case f.* 11.

he shall have nothing but errour maintained and confirmed. Therefore it behoveth for saving the Oath, when the King will not redresse a thing, and remove what is evill for the Common people, and prejudicall to the Crowne, that the thing ought to be reformed by force, because the King is bound by his oath to governe his Lieges and people, and his Leiges are bound to governe in ayde of him, and in default of him. Whereupon, these *Spencers, of their owne private Authority, tooke upon them by Usurpation the sole government both of King and Kingdome, suffering none of the Peeres of the Realme, or the Kings good Counsellors, appointed by the State, to come neere him to give him good counsell; not permitting the King so much as to speake to them but in their presence.* But let this their opinion and private unlawfull practise, be what it will; yet no doubt it is lawfull for the whole State in Parliament, to take course, that this part of the Kings Royall trust (the chusing of good publike Counsellors, Officers, Iudges, which much concernes the Republike) be faithfully discharged, by recommending such persons of quality, integrity, and ability to all publike places of trust and judicature, as both King and Kingdome may confide in; which will be so farre from depressing, that it will infinitely advance both the Kings Honour, Iustice, profit, and the Kingdomes to.

Seventhly, It is undeniable, that the Counsellors, Iudges, & Officers of the Kingdome, are as well the Kingdomes, Counsellors, Officers, and Iudges as the Kings, yea more the Kingdomes than the Kings, because the Kings but for the Kingdomes service and benefit. This is evident by the Statute of 14. *E.* 3. c. 5. which enacts; *that as well the Chiuncellor, Treasurer, Keeper of the Privie Seale, the Justices of the one Bench and of the other, the Chauncellour and Barons of the Eschequer, as Justices assigned, and all they that doe meddle in the said places under them, shall make an Oath, well and lawfully to SERVE the King and HIS PEOPLE, in THEIR OFFICES:* which Oath was afterward enlarged by 15. *E.* 3. c. 3. 18. *E.* 3. *Stat* 3. 20. *E.* 3. c. 1. 2. 3. 1 *R.* 2. c. 2. (swearing and injoyning them: *To doe even Law, and execution of right* to all the Subjects *rich and poore, without having respect to any person, &c. And if any of them doe, or come against any point of the great Charter, or other Statutes or the Laws of the Land, by the Statute of* 15. E. 3. c. 3. *he shall* answer to the Parliament, *as well at the Kings suite, as at the suite of the party.* Seeing then they are as well the Kingdomes Counsellors, Officers, Iudges, as the Kings, and accountable responsible for their misdemeanors in their places, as well to the Parliament and Kingdome as to the King, great reason is there, that the Parliament, Kingdome (especially when they see just cause) should have a voyce in their elections, as well as the King. The rather, because when our Kings have beene negligent in punishing evill Councellours, Officers, Iudges, our Parliaments out of their care of the publike good, have in most Kingraignes, both justly questioned, arraigned, displaced, and sometimes adjudged to death the Kings greatest Councellors, Officers, and Iudges for their misdemeanors witnesse the displacing & banishing of *William Longsham Bishop of Ely, Lord Chauncellour, chiefe Justice, and Regent of the Realme in Richard the* 1 *his Reigne; Of Sir Thomas Wayland chiefe Justice of the Common pleas, attainted of Felony, and banished for bribery by the Parliament*, 18. Ed. 1. the severall banishments of *Piers Gaveston* and the 2 *Spensers* (the Kings greatest favorites, Officers, Counsellors) for seducing misconselling King *Edward* the second, oppressing the Subjects, and wasting the King revenues; the removall and condemnation of *Sir William Thorpe*, chiefe Iustice of the Kings Bench, for Bribery, 25 E. 3. the fineing and displacing of 2 *Michael de la Pole Lord Chauncellor, Alexander Nevell*, and divers other great Officers, and Privi-

(r) See *Hoveden, Mat. Par. Mat West. Fabian, Polyc. Graf. Speed, Holinshed* and *Nubrigensis* in the life of *R.* the 1. and *Goodwin* in this Bishops life.

s *Walsi. Holin. Speed, Graft.* in *Ed.* 1. and *Cookes Instit.* on *Littleton.* f. 133. a.

t See *Exilium Hugonis Despenser, Walsi. Fabian Holin. Graft. Speed* in the life of *Ed.* 2.

u M. *S. Johns* Speech against Ship-money p. 22 23.

x 11 *R.* 2 c. 1 to 7 *Walsi. Fab. Graf. Holin. Speed* in the life of *R.* 2.

Coun-

Counsellors, with the condemning, executing, and banishing of *Tresilian*, *Belknap*, and other Iudges, in 10. & 11. *Rich.* 2. by Parliament, for ill *Counsell*, and giving their opinions at *Nottingham* against Law. Of [h] *Empson*, *Dudley*, and that grand Cardinall *Wolsy*, *Lord Chancellor*, and the Kings chiefest Favorite and Counsellour, in *Henry* the eight his Raigne: Of the Duke of *Sommerset Lord Protector*, and his Brother, Lord Admirall, for suppos'd Treasons in *Edward* the 6th. his Raigne; Of Sir *Francis Bacon* Lord Keeper, and *Cranfield* Lord Treasurer, in King *Iames* his latter dayes; with infinite other presidents of former and latter ages; and one more remarkable then all the rest: [i] In the Yeare 1371. (the 45. of King *Edward* the 3d. his Raigne) and somewhat before, the Prelates and Clergy-men had ingrossed most of the Temporall Offices into their hands; *Simon Langham* Archbishop of Canterbury, being Lord Chancellour of England, *John* Bishop of Bath, *Lord Treasurer*, *William Wickam* Archdeacon of Lincolne, *Keeper of the Privie Seale*, *David Wolley* Master of the Rolles, *John Troy* Treasurer of Ireland, *Robert Caldwell* Clerke of the Kings Houshold, *William Bugbrig* generall Receiver of the Dutchy of Lancaster, *William Asshbey* Chancellor of the Exchequer, *John Newneham* and *William de Mulso* Chamberlaines of the Exchequer, and keepers of the Kings Treasury and Iewe's; *John Rocsby* Clerke and Comptroller of the Kings works and Buildings, *Roger Barnburgh*, and 7. Priests more, Clerkes of the Kings Chancery, *Richard Chesterfield* the Kings under-Treasurer, *Thomas Brantingham* Treasurer of *Guines*, *Merke*, and *Calis*; All these Clergiemen (who abounded with pluralities of rich Spirituall Livings, though they Monopolized all these temporall Offices;) in the Parliament of 45. *Edward* the 3d. by a *Petition and Complaint of the Lords, were displaced at once from these offices* (no waies sutable with their functions) and *Laymen substituted in their places:* And a like [k] president I find about 3. *Henr.* 3d. *where the Clergy Lord Chancellor, Treasurer, with other Officers were removed, upon a Petition against them, and their Offices committed to Temporall men, whom they better beseemed.* If then the Parliament in all Ages hath thus displaced and censured the greatest Counsellours, State-Officers, Iudges for their misdemeanours, ill Counsell, insufficiency, and unfitnesse for these places, (contrary to that twice condemned false opinion, of the over-awed Iudges at *Nottingham* in 11. R. 2. * *That the Lords and Commons might not without the Kings will impeach the Kings Officers and Justices upon their Offences in Parliament, and he that did contrary was to be punished as a Traitor*;) and that upon this very ground, that they are the Kingdomes Counsellors, Officers and Justices, as well as the Kings, and so responsible to the Parliament and Kingdome for their faults. I see no cause why they may not by like reason and authority, nominate and place better Officers, Counsellours, Iudges in their steeds, or recommend such to the King, when and where they see just cause.

[h] 1. H. 8. c. 15 Holl, Speed, Grafton, Stow Martin in H. 8. & Ed. 6.

[i] Antiq. Ecclesiæ Brit. pag. 275. 281. 283 Walsing Hist. p. 181 Typodigm. Neust. p. 132. Caxton. part. 7 46. F. 3. Graft. p. 317.

[k] Antiqui Eccles. Brit. pag. 21.

* R. 2. c. 12. Graft. p. 352 353 Walsing. Typodg Neust. p. 146, 147.

Eighthly, [l] *John Bodin* a grand Polititian, truely determines and prooves at large, *That it is not the right of election of great Officers, which declareth the right of Soveraignty, because this oft is, and may be in the Subjects, but the Princes approbation, and confirmation of them when they are chosen, without which they have no power at all.* It can then be no usurpation at all in the Parliament upon the Kings *Prerogative*, to nominate or elect his Counsellors, great Officers, and Iudges, or recommend meet persons to him (which is all they require) so long as they leave him a Power to approve and ratifie them by Writs or speciall Patents, in case hee cannot justly except against them; Of which power they never attempted to divest his Majestie, though hee be no absolute, but onely a politike King, [m] as *Fortescue* demonstrates.

[l] Commonwealth. lib. 2. ca 10 p. 167. 168.

[m] De laud. leg. Angliæ. l. 9, 13, 14.

Ninthly, It hath beene, and yet is usuall in most Forraigne Kingdomes, for the Senate and people to elect their publike *Officers and Magistrates*, without any diminution to their Kings Prerogative. In [n] the *Roman State*, the people and Senate not onely constantly *elected their Kings and Emperours, but all their other grand publike Officers and Magistrates*, (*as Consuls, Tribunes, Dictators, Senators, Decemviri, and the like*) were *elected by the people, who prescribed them Lawes, Oathes, and had power to question, to punish, remoove and censure them when they offended.* [o] *Solon* and *Aristotle*, with other great Politicians, debating this Question; *Whether the power of electing and censuring the Magistrates, and chiefe Officers ought to reside in the people?* Conclude affirmatively, *That it is most necessary and convenient, this power should rest in the people; because else the people shall become both the servants and enemies of their Princes, if they have not this power; and because all the people together are more considerable, and better able to judge of the goodnesse and fitnesse of Magistrates for them, then any few select particular men, which are more apt to be seduced with by-ends, then a great multitude.* Whence, among the *Lacedemonians*, and in most Kingdomes and Republicks in *Greece, the people had both the election, yea and correction of their Magistrates and chiefe State officers*, as they manifest. In the Kingdome of [p] *Aragon*, in *Spaine*, their ancient *Suparbiense Forum*, their *Iustitia Aragoniæ*, and *Rici homines*, (who are their *principall Magistrates, Great Counsell of State, and Privie Counsellours to their King, both in Warre and Peace; having power over their Kings themselves, to examine and censure all their Actions, and remove them if there be cause;*) with *all their Members, Knights, and Burgesses, of their Parliaments*; (held formerly once a yeare, but now once every second yeare, by fixed Lawes;) *anciently were, and at this day are elected by the People, and not the King.* In [q] the *Germane Empire*, the *Electorship, Chancellourship, and all great Offices of State, are hereditary and successive, not chosen by the Emperor: and the greatest part of inferiour Magistrates, are elected in most Provinces and Cities by the people.* In [r] *Hungary*, the great *Palatine*, the chiefest Officer of that Kingdome, next to the King himselfe, who at home determineth and judgeth all differences betweene the King and Subjects, according to the Lawes of that Realme (*est enim apud Pannonios in usu, Regem si quid contra Legem fecerit, legibus subyci*) and during the *interregnum*, hath right to summon Parliaments and generall assemblies of the Estates; yea, the chiefe hand and power in electing a new King; and the Soveraigne command in the Warres, *Ad eos autem spectat, bene de republica meritis præmia discernere, fundosque qui 20. vel 30. agricolarum capaces sunt juris hæreditarij nomine conferre possit, &c.* (as *Nicholaus Isthuanfus* writes) is elected by the States and Parliament of *Hungary*, not the King. * And in this manner *Bethrius* was elected Palatine in a full assembly of the States, *Senatus, Nobilitatisq; consensu, Anno Dom* 1517. and the *Vayuode* put by. In * *Venice*, the Senate and people chuse all the great publike Officers, not the Duke. In * *Poland* (where the King is elective) by the Law of *Sigismond Augustus*, *all the Magistrates of every Country were to be chosen, by the particular States of every Government*, * and so they are now. In *Denmarke*, and *Sweden*, and *Bohemia*, the Kings themselves are Elective by the States and people, and most of their publike Officers too. When [t] *Rome* and *Italy* were under the *Gothish Kings*, they still elected their publike Officers, as is evident by King *Theodoricus* Letter of approbation of their Election, in these Words, *Our consent, Reverend Fathers, doth accompany your judgement.* In [u] *Scotland*, Anno 1295. the *Scots* in King *Iohn Bayliols* Raigne, considering his simplicitie and unapnesse, elected them 12. *Peeres, after the manner of France:* (to wit) 4. Bishops, 4 Earle

Bodin. Commonwealth, l. 1 ca. 10. Liuy hist. l. 1. 2. 3. 4. 7. Dionys Hal. l. 2. & 3. Polib. hist. l. 6. See the Appendix.

[o] *Arist. Polit. l. 2. c. 10. l. 3. c. 7.*

[p] *Hieronym. Blanca Aragonensium rerum Comment. p. 588. 589. 590. 716. to 724. 747. to 762.*

[q] *Munst. Cos. l. 3. c. 22. 23. &c.*

[r] *Bodin. Com. weal. l. 1. c. 10. Nichol. Isthuanfus de rebus Vngar Hist. l. 6. p. 84 85. Anno 1517.*

* *Bodin. l. 1. c. 10* and the generall History of *Venice.*

[t] See *Munster Pontanus, Olaus Magnus*, and others.

[u] *Bodin. l. 1. c. 10. Cassiodor. l. 1. Epist. 6.*

[u] *Mat. West. An. 1295. p. 399. Walsing. Hist. Angl. p. 28. & Tpodigma, p. 79.*

Earles, and 4. Lords, by whose counsell the King ought to Governe the Realme, and by whose ordination all the affaires of the Kingdome should be directed; which was principally done in affront of King *Edward* the first, by whom this *John* was made King of *Scotland*, in some sort against the *Scots* good liking; some of them secretly murmuring against it. In *France* it selfe, where the King (as [x] some thinke, and write, *is an absolute Monarch,*) the greatest publicke Officers anciently, have sometimes beene Elected by the Three Estates of Parliament. [y] *Anno* 1253. The States of *France*, Elected the Earle of *Leycester* their Grand *Seneschall*, and *chiefe Counsellour of State*, to advise them, and their desolate estate, what to doe. [z] In the Yeare 1324. *Arthur* Duke of *Britaine* was chosen *Constable of France, by the voice of all the Peeres, of the Great Counsell, and Parliament*; and thereupon was admitted to that *Grand Office*. [a] In the Yeare 1357. the 7th. of King *John* of *France*, the Archbishop of *Roan*, Chancellour of *France*, Sir *Simon de Bury*, chiefe Counsellour of the King, and of the Parliament, Sir *Robert de Lorize*, Chamberlaine to the King, Sir *Nicholas Brake*, master of the Kings Pallace, *Eguerrain*, Burges of *Paris*, and Vnder-Treasurer of *France*, *John Priest*, Soveraigne-Master of the Money, and Master of the Accounts of the King, and *John Chauveon*, Treasurer of the Kings Warres, were *all complained of by the Three Estates of* France, *assembled in Parliament, for misguiding the King and Realme, their goods confiscated to the King, themselves removed from these Offices, and others elected in their places by the States.* In [b] the Yeare 1408 by a Law made in the Parliament at *Paris*, it was Decreed, *That the Officers of the High Court of Parliament should be made by the Parliaments Election, and those then vacant were so*; which Law was againe revived by King *Lewis* the 11th. in the Yeare 1465. And after him, in the time of *Charles* the 8th. not onely the *Presidents*, the Kings *Counsellors* and *Advocates* were made by election, but even the Kings *Attorney Generall*, (the onely man of all the body of the Court, that oweth not Oath but to King onely) *was chosen by the suffrages of the Court, in the Yeare* 1496. though their Letters of Provision and confirmation of their Election then were, and yet are *alwaies granted by the King*. About the [c] Yeare 1380. the Earle of *Flanders* exacting new Customes and Taxes from his Subjects, contrary to their Liberties, *they thereupon expelled him, with all his Family and Counsellers out of their Countrey*, And refused upon any termes to submit to his Government, *unlesse hee would remove all his evill Counsellours from him, and deliver them into their hands to bee punished, Et recipere SOLVM VELIT CONSILIARIOS EX COMMVNIS VVLGI DECRETO, and would receive such Counsellours onely as his people by common decree should assigne him*; *which he was constrained, sore against his will, to condescend too, ere they would restore him.* Since then the election of the Counsellours, Magistrates, Iudges, and Prime Officers of State in most other Kingdomes, have beene thus elected by the people and Parliaments without any enchroachments upon their Kings just Regalities; Why our Parliament now may not claime and enjoy the like Priviledge, without any impeachment of the Kings just Prerogative? transcends my understanding to conceive.

Finally, our owne Parliaments in most Kings Raignes, have both claimed and enjoyed this power of Electing Privie Counsellours, Chancellors, Treasurers, Iudges, and other great Officers of State, and created some new Officers of farre higher qualitie and power (to governe both King and Kingdome) then any the Parliament desires, or are in truth fitting for them to create unlesse in cases of absolute necessitie, to prevent the Kingdomes utter ruine. To give you some few principall instances of many.

[x] *Bod. l. 1. c. 10 l. 2. c. 5. Cassanæus Catal. gloriæ mundi. consid. 24.*

[y] *Math. Paris p. 835.*

[z] *Bodin. l. 1. c. 10.*

[a] *Fabian part 7. p. 182. to 190.*

[b] *Bodin. l. 1. c. 10.*

[c] *Walsin. hist. p. 235. 236. Fabian. part. 7. pag. 317.*

In

[a] *Matth. Paris Hiſt An.* 1214. 1215. *p* 243 *to* 286. *Math. Weſtm. Wal: ſing. Ypodig. Polichron. Fabian Caxton, Graſton, Stow. Hollinſhed, Polydor. Virg. An.* 1412 *Daniel p.* 143 144. *Speed p.* 578. *to* 587.

In the [d] Yeare 1214. the 16. Yeare of King *Iohns* raigne, in a Parliament held at *Running-Meade*, neare *Windſor*, for the ſetling and ſecuring of *Magna Charta*, and other the Subjects Lawes and Liberties formerly granted by *Henry* the 1. it was agreed by King *Iohn*, and Enacted, *That there ſhould be* 25. *Barons choſen, ſuch as the Lords would, who ſhould to their uttermoſt power cauſe the ſame to be held and obſerved. And that if either the King or his Juſticiar ſhould trangreſſe in any Article of the Lawes, and the offences ſhewed,* 4. *Barons of the* 25. *ſhould come to the King, or in his abſence out of the Kingdome, to the chiefe Iuſticiar, and d clare the exceſſe, requiring without delay, redreſſe for the ſame; which if not made within* 40. *daies after ſuch declaration, thoſe* 4. *Barons ſhould referre the cauſe to the reſt of the* 25. *who with the Commons of the Land, might diſtraine and inforce the King by all meanes they could (by ſeiſing upon his Caſtles, Lands, and Poſſeſſions, or other goods; his Perſon excepted, and that of his Queene and Children,) till amends be made according to their Arbitration. And that whoſoever would ſhould take their* Oath *for the execution hereof, and obey the Commandement of the* 25. *Barons herein without prohibition. And if any of them diſſented, or could not aſſemble; the Major part, to have the ſame power of proceeding:* Hereupon there are 25. Barons choſen to be *Conſervators* of *Magna Charta*, and the Subjects Privile dges (whoſe names you may read in *Mathew Paris*) who by the Kings Conſent, tooke an Oath upon their ſoules; that they would keepe theſe Charters with all diligence, and *Compell the King*, if he ſhould chance to repent (as he did ſoone after) to obſerve them: Which done, all the reſt of the Lords, then likewiſe tooke another Oath, *to aſſiſt and obey the Commands of thoſe five and twenty Barons.*

[e] *Fran. Thin his Catalogue of Protectors. Holinſhed vol.* 3. *Col* 1073.

In the Yeare 1221. [c] *Hugh de Burgh, was made the Protector, or Guardian of the Realme, by a Parliament, held at Oxford.* In the Yeare 1222. I reade in [f] *Mathew Paris*, and others, that *Ralph Nevill* Biſhop of *Chicheſter*, was made *Keeper of the Great Seale, and Chancellour of England*, by aſſent *of the whole Kingdome (in Parliament,)* to wit, in ſuch ſort, *Vt non deponeretur ab ejuſdem ſigilli cuſtodia, NISI TOTIVS REGNI ORDINANTE CONSENSV & CONSILIO*, That he ſhould not be depoſed *from the cuſtody of the ſaid Seale*, but *BY THE ORDINANCE, CONSENT and COVNSELL OF THE WHOLE REALME.* Loe here the greateſt Officer of the Realme, not onely elected, but confirmed by Parliament, ſo as no to be diſplaced but by the conſent of the whole Realme, whoſe publicke Office he was. Hereupon King *Henry* afterward, taking ſome diſtaſte againſt *Ralfe* (becauſe the Monkes of *Wincheſter* elected him Biſhop of that Sea againſt his good liking) *tooke away the Seale from him, and delivered it to Geffrey* of the Temple, in the 22th Yeare of his Raigne; but *yet he helde his Chancellors place ſtill, and tooke the profits of it during all his life; though he refuſed to take the Seale againe, when the King offered to reſtore it him, the* 23. *of his Reigne, Quod per Conſilium prædicto Cancellario commiſſum fuit TOTIVS REGNI.* [h] After which he being reſtored to the Seal by the Parliament *An.* 1236. this King removed *Ralph* the Steward of his Houſhold with certaine other his Counſellors, and great Officers of his Houſe, from his Counſell, and their Offices; and he likewiſe moſt inſtantly required his Seale from thi Biſhop of Chicheſter his Chancellour, who executed his Office unblameably, being pillar of truth in the Court But the Chancellor refuſed to deliver it, ſeeing the vio lence of the King to exceed the bounds of Modeſtie; and ſaid, *That he could by n meanes doe it, Cum illud COMMVNI CONSILIO REGNI SVS CEPISSET*, ſince he had received it by the common Counſell of the King dome

[f] *Hiſt. Angl. p.* 305. *Godw. Catalogue of Biſhops, p* 386 *Math. Weſtm. An.* 1222. *pa.* 213.

[g] *Math. Paris p.* 456. *Franc. Thin, his Catalogue of Chancellors in Hollinſhed volum.* 3. *c. fol.* 1175. *Math. Weſt. An.* 1238. *pag.* 349.

[h] *Math Weſt. An.* 1248. *pag.* 229. 233. *Math. Paris An.* 1248. *pa.* 719. 720. 725 *Math. Paris Hiſt. An.* 1230 *p.* 415. *Daniel Hiſt. p* 157. *Edit.* 1634.

dome; wherefore he could not resigne it to any one *WITHOVT THE COMMON COVNSEL OF THE REALME*; to wit, the Parliament. In the * Yeare 1244. the 28. of *Henry* the 3d. his Raigne (the Bishop of *Chichester*, that faithfull Stout Chancellour made by Parliament, dying, and the place continuing void for a space) in a Parliament at *London*, the Lords and Commons complained, *That for defect of a Chancellor, divers Writs were granted against Iustice, and they demanded, that by* THEIR ELECTION *a Iusticiar and Chancellour might bee made, by whom the State of the Kingdome might be settled,* AS IT WAS ACCOVSTOMED. *The King promised* to reforme all things himselfe, lest hee might seeme thereto compelled by them: which they gave him a convenient time to effect, and so adjourned; promising to give him an ayde at their next meeting, if in the meane time, he redressed things amisse, according to promise: Which he failing to doe. At their next meeting, *They demanded* Magna Charta *to be confirmed, which they had divers times dearely purchased, and a new Charter to bee made for that purpose, That all the infringers thereof should bee solemnly Excommunicated by the Bishops. And because the King had not hitherto observed the great Charter, notwithstanding his Oathes and promises, and Saint* Edmonds *Excommunication against him for infringing it,* lest *the like danger should happen in after times, and so the last errour be worse then the first,* By Common *ASSENT* they Elected 4. *of the most Politicke and discreetest men of all the Realme,* Who Should Be Of The Kings Counsell, *and sweare, that they would faithfully mannage the affaires of the King and Kingdome, and would administer Iustice to all men, without respect of persons: That these should alwales follow the King; and if not all, yet two at the least, should be present with him, to heare every mans complaint, and speedily relieve such as suffered wrong. That the Kings Treasury should bee issued by their view and testimonie, and that the money specially granted by all, should be expended for the benefit of the* King *and Kingdome, in such sort, as should seeme best, and most profitable. And that these shall be Conservators of their Liberties. And that as they* Are Chosen by the assent of all, *so likewise not any of them should be removed, or deprived of his Office, without* Common assent. *That one of them being taken away, by the election and assent of the three, another should bee substituted within two moneths. Neither without them, but when there shall be necessitie, and at their Election, may all meet again. That the Writs impetrated against the Law and Customs of the Realme, should be utterly revoked and cancelled. That Sentence should be given against the Contradictors. That they should oblige one another to execute all this by a mutuall Oath. That the* Iusticiar *and* Chancellor should be chosen by the generall Voices of all the States assembled: *and because they ought to be frequently with the King, may be of the number of the Conservators. And if the King by any intervenient occasion shall take away his Seale from the Chancellor, whatsoever shall be sealed in the interim, shall be reputed void and frustrate, till restitution of it be made to the Chancellour. That* None be substituted Chancellor, or Iusticiar, but by the Vniversall assembly and free assent of all. *That Two Iustices may be chosen of the Bench; Two Barons of the Exchequer ordained: And at least One Iustice of the Iewes acepted: That at this turne All* the said *Officers* should be Made and Constituted by the Common Vniversall and Free Election of All, *That like as they were to handle the* Businesses of *All, So etiam in eorum Electionem concurrat assensus singulorum; So likewise* For their Election the *Assent* of all should Concur. *And afterwards, when there shall be need to substitute another in any of the foresaid Places, this Substitution shall be made by the Prevision and Authority of the Foure Counsellors aforesaid. That those hitherto suspected, and lesse*

* *Math. Paris An.* 1244. p. 619. to 623. *Daniels Hist.* p. 161. 162.

necessary should be removed from the king's side. But whiles these businesses, ever profitable to the Common-wealth, had beene diligently handled by the Lords for three weekes space; the enemie of mankinde, the disturber of peace, the raiser of sedition the devill (as *Matthew Paris* writes) unhappily hindred all these things by the Popes avarice, through the comming of *Martin* a new Legate, with a larger power then any ever had before to exact upon the state; the interposition of which businesse in Parliament, where it received a peremptory repulse, tooke up so much time, that the former could not be fully concluded during that Parliament. Whereupon after this, in the yeare 1248. [h] king *Henry* calling a generall Parliament at *London*, to take an effectuall course for the setling of the distractions and grievances of the Realme; & therein demanding an ayde; he was grievously reprehended for this, That he was not ashamed then to demand such an ayd, especially because when he last before demanded such an exaction (to which the Nobles in *England* would hardly assent) he granted by his Charter, that he would no more doe such an injury and grievance to his Nobles; they likewise blamed him for his profuse liberality to forraigners, on whom he wasted his Treasure; for marrying the Nobles of the land against their wills to strangers of base birth; for his base extortions on all sorts of people, his detaining the Lands of Bishops and Abbots long in his hands during vacancies, contrary to his coronation oath, &c. But the king was especially grievously blamed by all and every one; who complained not a little, for that Title, *at his magnificent Predecessors Kings have had, Justiciarium nec Cancellarium habet, nec Thesaurarium, per commune consilium Regni provt decerett & expediret, he had neither a* chiefe Iustice, nor Chancellor, nor Treasurer made, by the Common Councell of the kingdome as it was fitting and expedient; but such who followed his pleasure whatsoever it was, so it were gainefull to him, and such as sought not the promotion of the Common-wealth, but their owne, by collecting money, and procuring Wardships, and Rents, first of all to themselves; (A cleare evidence, that these Officers of the kingdome were usually of right created by the Parliament, in this kings and his Ancestors times:) When the king heard this he blushed, being confounded in himselfe; knowing all these things to be most true: he promised therefore most truely and certainely, that he would gladly reforme all these things, hoping by such a humiliation, though fained, more readily to incline the hearts of all to his request; To whom, taking councell together, and having beene oft ensnared by such promises; they all gave this answer: This will be seene, and in a short time it will manifestly appeare to all men; therefore we will yet patiently expect; and as the king will carry himselfe towards us, so we will obey him in all things: Whereupon all things were put off and adjourned till 15. dayes after Saint *John Baptists* feast; But the king in the meane time, obdurated either by his owne spirit, or by his Courtiers, who would not have his power weakned; and being more exasperated against his people, regarded not to make the least reformation in the foresayd excesses, according as he had promised to his leige people, but insteed thereof, when all the Nobles and Parliament met againe at the day prefixed, firmely beleeving that the king, according to promise would reforme his errors, and follow wholesome councells, gave them this displeasing answer, by his ill Councellours: (from whom his Majesties evill advisers lately borrowed it.) You would, all Ye Primates of *England*, very uncivilly bind your Lord the king, to your will, and impose on him an over-servile condition, whiles you would impudently deny to him, that which is lawfull to every one of your selves. Verily it is lawfull to every one, to use whose and what councell he listeth. * Moreover it is lawfull to every householder to preferre to, put by, or depose from this or that offi-

[h] *Mat. West. An.* 1248. p. 219 233. *Mat. Paris*, An. 1248. p 719, 720, 725. *See p.* 420, 421.

* These ill Councellours forgot, that there is a great vast difference betweene private Menials servants of the king, and publike Officers of the kingdome; so that their Argument is but a fallacy.

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any of his houſhold, which yet you raſh'ly preſume to deny to your Lord the king; eſpecially when the ſervants ought not at all to judge their Lord, nor the vaſſalls their Prince; nor to reſtraine him with their conditions; Yea verily, who ever are reputed * inferiours, ought rather to be directed by the pleaſure of their Lord, and to be regulated by his will; for the ſervant is not above his Lord, nor yet the Diſciple above his Maſter. Therefore he ſhould not be as your king, but as your ſervant, if he ſhould be thus inclined to your will. Wherefore he will neither remove Chancellour, nor Iuſtice, nor Treaſurer, as you have propounded to him to doe; neither will he ſubſtitute others in their places: He likewiſe gave a cavilling anſwer to the other Articles though wholſome enough to the king, & demanded an ayd to recover his right in forraigne parts. When the Barrons heard this anſwer, it appeared more cleere then the light, that theſe things ſprung from thoſe ill Councellours, whoſe weakened power would be utterly blowne up, if the Councell of all the Baronage ſhould be harkened to; Wherefore they all gave this unanimous peremptory anſwer; That they would grant no ayde at all to impoveriſh themſelves, and ſtrengthen the enemies of the king and kingdome: and ſo the Parliament being diſſolved with indignation, *unuſquiſque ſpe fraudatus à Parliamento fruſtra diu expectato, nihil niſi damnas, cum frivolis, amiſſis laboribus cum expenſis, ut ſolent ſæpius, reportarunt.* Which when the king had ſeene he was put into a vehement anger, and ſaid to his Councellours; Behold by you the hearts of my Nobles are turned from me; Behold I am like to loſe *Gaſcoigne*, *Poyteirs* is ſpoyled; and I am deſtitute of Treaſure; What ſhall I do. Whereupon to ſatisfie him they cauſed his Plate and Iewels to be ſold, & invented ſundry new projects to raiſe monies. The very * next yeare 1249. the Lords aſſembling againe at *London* at the end of Eaſter preſſed the king with his promiſe made unto them, That the chiefe Iuſticiar, Chauncellour, and Treaſurer might BE CONSTITVTED BY THE GENERALL CONSENT OF THE KINGDOME; which they moſt certainely beleeved they ſhould obtaine: but by reaſon of the abſence of *Richard* Earle of *Cornewall*, which was thought to be of purpoſe, they returned fruſtrate of their deſire for that time. * *Anno* 1254. in another Parliament ſummoned at *London*, in Eaſter Tearme, the Lords and Commons require and claime againe their former Rights in electing the Iuſticiar, Chauncellor, and Treaſurer, but after much debate the Parliament is proroged, and nothing concluded. But the Lords and Commons would not be thus deluded of their right, which to regaine, they ſtrained their Iuriſdiction to an higher Note than ever they had done before. For in the [1] yeare 1258. the Barons ſeeing the Realme almoſt deſtroyed with Taxes, and exactions and *Poictouines*, to domineere, and rule all things in *England*, effectually to redreſſe theſe grievances, and reforme the State of the Realme, in a Parliament at *Oxford*, (to which they came very well armed) by adviſe of ſome Biſhops; among other Articles, they demanded of the king, That ſuch a one ſhould be chiefe Iuſticiar who would judge according to Right, &c. And that 24. (others write 12.) perſons (whom *Fabian* ſtiles the *Deuze* peeres) ſhould there be choſen, to have the whole adminiſtration of the king and ſtate (by reaſon of the kings former miſgovernment) and the yearely appointing *of all great Officers*; reſerving onely to the king the higheſt place at meetings, and ſalutations of honour in publike places. To which *Articles* the king, and his ſonne Prince *Edward*, out of feare, not onely aſſented and ſubſcribed, but likewiſe tooke a ſolemne oath to performe them; all the Lords and Biſhops taking then the like oath, to hold and maintaine theſe Articles inviolably; and further they made all that would abide in the kingdome, to ſweare alſo to them; the *Archbiſhops* and Biſhops ſolemnely accurſing all ſuch as ſhould Re-

* But the whole Parliament and kingdome which they repreſented were not inferiour but above the king himſelf who was but the kingdomes Officer and publike ſervant; and ſo this reaſon made more againſt then for the king.

**Mat Par. Hiſt. p. 740 Dan. p. 165.*

**Dan. p. 171. 172.*

[1] *Mat. Par. p. 940 941. 932 960. Mat. Weſt. An. 1258 to 1262 p. 277. 278 300. 307. to 312. Fabian. part. 7. p. 61. to 73. Graf. p. 137. to 145. Speed p. 635. 636. &c. Holinſhed, Dan. Stow, and others.*

bell against them Which *Articles* the king and his son labouring by force of *Armes* to annull, they were notwithstanding enforced to confirme in three or foure subsequent Parliaments. By vertue of these *Articles* enacted thus in *Parliament*, those Lords not onely removed old shiriefes of Counties appointed by the king, and put in new of their owne chusing; but likewise displaced *Philip Lovell* the kings *Treasurer*, with divers Officers of the Exchequer, and sundry of the kings meniall servants, setting others whom they liked in their places; and made *Hugh Bygod*, Lord Chiefe Justice, who executed that Office valiantly and justly, *nulla tenus permittens jus Regni vacillare*; creating likewise a new Chauncellour and removing the old.

After this in a Parliament at *London*, Anno 1260, they consulted about the electing of new Iustices, and of the Chancellour and Treasurer of England for the following yeare, (these places being made annuall by the former Parliament:) in pursuance whereof, *Hugh Bigod* his yeare expiring, *Hugh Spenser* was by the Lords and Paliament appointed to be his successor, and made *Lord Chiefe Justice: and likewise Keeper of the Tower of London, by the consent of the King and Barons*; and by authority of this Parliament the *Abbot* of *Burgh*, succeeded *John de Crakedale* in the *Treasurership*, and the *Great Seale of England* was by them committed to the custody of * *Richard* the *Bishop of Ely*. The very next yeare 1261. the Barons, with the consent of the selected *Peeres*, discharged *Hugh Spenser* of his chiefe Iusticeship, when his yeare was expired, and substituted Sir *Philip Basset* in his roome; In which yeere the King appointed Iustices of Eyre through England, without the Lords, contrary to the Provisions of the Parliament at *Oxford*: they comming to *Hereford* to keepe a Sessions there, and sommoning the County to appeare before them on *Hockeday*; divers chiefe men of those parts, who sided with the Barrons assembled together, and strictly commanded those Iudges not to presume to sit, against the Ordinances of *Oxford*; neither would any other of the people answere them in any thing: whereupon acquainting the King with this opposition, they departed thence without doing ought: and the King making this yeare new Shiriefs in every County, displacing those the Barons had made; the inhabitants of each County hereupon manfully repulsed them, and would not obey, nor regard, nor answere them in any thing; whereat the King was much vexed in minde: and upon a seeming shew of reconciliation to the Barons, going to *Dover*, and *Rochester Castles* (committed to the Barons custody for the Kingdomes safety) they permitted him to enter peaceably into them without any resistance: Vpon which, minding to breake his former oathes for the keeping of the *Oxford* Articles, he first seiseth upon these and other Castles, and then comming to *Winchester Castle* where he had free entrance permitted him by the Barons (who suspected no ill dealing) he tooke it into his owne custody; whether he called to him the *Chiefe Justice and Chauncellor*, not long before made that yeare, by the Barons; commanding them to deliver up the Seale and Iustices Roles unto him; who answered, that they could by no meanes doe it, without the Barons consent and pleasure concurring with the Kings with which answere the King being moved, presently without consulting with the Baronage, made *Walter Merton* Chauncellour, and the Lord *Philip Basset* Chiefe Iustice to him and the Kingdome; removing those the Barons had appointed from those and other places. Which the Barons hearing of, *considering that this was contrary to them and their provisues, and fearing least if the King should thus presume, he would utterly subvert the statutes of Oxford*; thereupon they posted to the King, *guarded with armes and power, and charged him with the breach of his oath*; forcing him at last to come to an agreement with them; which the King soone violating; the Barrons ar-

* See *Francis Thin* his Catalogue of Chancellors of *England*, *Holinshed*, *vol.* 3. *Col* 1276, *Daniels* History, p. 139. 1952.

he raised great Forces, met and fought a bloody battle at *Lewes* in *Sussex*; where after the losse of 20000. men, the King and his sonne *Prince Edward*, with sundry Lords of his party were taken and brought Prisoners to *London*: where all the Prelates, Earles, and Barons, meeting in Parliament (*Anno* 1265 as *Matthew Westminster* computes it) made new Ordinances for the Government of the Realme; appointing among other things, that 2 Earles, and one Bishop elected by the Commons should chuse 9 other persons, of which 3 should still assist the King; and by the Councell of those three and the other nine, all things should be ordered, as well in the Kings House as in the Kingdome, and that the King should have no power at all to doe any thing without their Councell and assent, or at least without the advise of 3. of them. To which Articles the King (*by reason of menaces to him, to elect another King*) and Prince *Edward* (*for feare of perpetuall Imprisonment if they consented not*) were enforced to assent; all the Bishops, Earles, and Barrons consenting to them, and setting their seales to the instrument wherein these Articles were conteined. After which the Earle of *Leicester* and his two sonnes, being 3. of the 12. divided all the Kings Castles and strong holds betweene them, and bestowed all the chiefe Offices in the Kings house, upon his Capitall enemies; which indiscreete disloyall carriage of theirs, much offended not onely the *King* and *Prince*, but the *Earle of Gloucester and other of the Barons*; so that they fell off from the Earle to the King and Prince, and in a battle at *Exsham* slew the Earle, and most of his Partisans; after which victory the King calling a Parliament at *Winchester*, utterly repealed and vacated those former Ordinances: which had they onely demaunded the Nomination of great Officers, Counsellours, and Iudges to the King, and not entrenched so farre upon his Prerogative, as to wrest all his Royall power out of his hands, not onely over his Kingdome, but household to; I doubt not but they had been willingly condescended to by the King and Prince as reasonable, and not have occasioned such bloody warres, to repeale them by force.

In King *Edward* the second his Reigne, the Lords and Commons by on Ordinance of Parliament, having banished out of Court and Kingdome *Pierce Gaveston*, his vicious favorite, and pernicious grand Councellour) in a [e] *Parliament* held at *Warwicke*, nominated and constituted *Hugh Spenser* the sonne, to be the *Kings Chamberlaine*; and in that Parliament further enacted; that certaine Prelates and other Grandees of the Realme should remaine neere the King by turnes, at set seasons of the yeare, to counsell the King better, without whom, no great businesse ought to be done: challenging (*writes Speed*) by sundry Ordinances made by them in Parliament, not onely a power to reforme the Kings house and Councell, and TO PLACE AND DISPLACE ALL GREAT OFFICERS AT THEIR PLEASVRE, but even a joynt interest in the Regiment of the Kingdome. After which the *Spensers* engrossing the sole Regiment of the King and Kingdome to themselves, and excluding those Lords from the King, appointed by the Parliament to advise him, not suffering the King so much as to speake with them but in their presence; they were for this and other offences banished the Land by Act of Parliament. This King towards the end of his raigne, after the Quenes arrivall with her Armie, obscuring himselfe and not appearing; by [f] *advise and consent of the Lords*, the *Duke of Aquitaine* was made High Keeper of *England*, and they as to the *Custos of the same did sweare him fealty*; and by them *Robert Baldocke* Lord Chancellour was removed, the Bishop of *Norwich* made Chauncellour of the Realme, and the Bishop of *Winchester* Lord Treasurer, without the Kings assent.

In the 15. yeare of King *Edward* the 3. chap. 3. 4. there was this excellent Law enacted

(e) *Exilium Hugonis Dele Spenser: Magna Charta, part. 2 f. 50. Speed p. 764. 675. 680. See Walsing. Feb. Holinshed in Ed. 2.*

(f) *Speed. pa. 680.*

acted. *Because the points of the great Charter be blemished in divers manners, and lesse well holden then they ought to be, to the great perill and slaunder of the King, and dammage of the People; especially in as much as Clerkes, Peeres of the Land, and other freemen be arrested and imprisoned, and outed of their goods and Cattels, which were not appealed nor indighted, nor suite of the party against them, affirmed; It is accorded and assented, that henceforth such things shall not be done. And if any Minister of the Kings, or other person of what condition he be, do or come against any part of the great Charter, or other statutes, or the Lawes of the Land, he shall answere to the Parliament, as well at the suite of the King, as at the suite of the party, where no remedy nor punishment was ordained before this time, as farre forth WHERE IT WAS DONE BY COMMISSION OF THE KING, as of his owne Authority, notwithstanding the Ordinance made before this time at Northampton, which by assent of the King, the Prelates, Earles, and Barrons, and the Commonalty of the Land, in this present Parliament is repealed, and utterly disanulled. And that the Chauncellour, Treasurer, Barons and Chauncellor of the Eschequer, the Justices of the one Bench and of the other, Justices assigned in the County, Steward and Chamberlaine of the Kings house, Keeper of the Privie Seale, Treasurer of the Wardrobe, Controulers, and they that be chiefe deputed to abide nigh the Kings Sonne Duke of* Cornewall, *shall be now sworne in this Parliament,* and so from henceforth at all times that they shall be put in Office, to keepe and maintaine the Priviledges and Franchises of holy Church, and the points of the great Charter and the Charter of the Forrest, and all other Statutes, without breaking any point. *Item,* it is assented, that if *ANY THE OFFICERS AFORESAID,* or chiefe Clerke to the Common Bench, or the Kings Bench, by death or other cause be out of his Office, that our Soveraigne Lord the King *BY THE ACCORD OF HIS GREAT MEN* which shall be found most nigheſt in the County, which he shall take towards him, *and by good Councell which he shall have about him, shall put another convenient into the sayd Office,* which shall be sworne after the forme aforesayd. And that in every Parliament at the third day of the same Parliament, the King shall take to his hands the Offices of all the Ministers aforesayd; and so shall they abide 4. or 5. dayes, except the Offices of Iustices of the one place and the other, Iustices assigned, Barons of the Eschequer; so alwayes that they and all other Ministers be put to answer to every complaint. And if default be found in any of the sayd Ministers by complaint or other manner, and of that be attainted in the Parliament, he shall be punished by judgement of his Peeres out of his Office, and *other convenient set in his place.* And upon the same, our sayd Soveraigne Lord the King shall doe to be pronounced to make execution without delay, *according to the Judgement of the sayd Peeres in the Parliament.* Lo here an expresse Act of Parliament[s] ordained and established by King *Edward* the third, by assent of the Prelates, Earles, Barons, and other great men, and of all the Commonalty of the Realm, which this king did give and grant for him and his heires firmely to be kept and holden for ever; that all great Officers, Barons, Iudges and Iustices of the kingdome, and chiefe attendants about the king and Prince, should not onely take the fore-mentioned Oath, but be elected alwayes by the accord of the great men, and good Councell neare and about the king, out of Parliament, and by the Peeres in Parliament, and the king bound to make execution according to their Iudgement. This Law (as I conceive) was never legally repealed by Parliament, but onely by this kings [h] Proclamation, by the ill advice and forced consents of some few Lords and Councellours about him; upon pretence, that he never freely assented to it, but by dissimulation onely to obtaine his owne ends, that Parliament, which el-

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* Note this. And the like Law was enacted in. 1. H. 4. *Fabian,* part. 7. p. 376.

[s] See the Preamble of this Statute accordingly in the Statuts at large.

[h] See the revocation of the Statute the same yeare by Proclamation; in the Statutes at large.

would have miscarried and broken up in discontent had not this Law beene granted in manner aforesaid. Which consideration makes me confident, that the Parliament being so eager to obtaine this Law, would never so soone yeeld wholly to repeale it, and so for ought I know it stands yet in force, to justifie the present Parliaments claime in this particular. In 2. *E.* 3. c. 8. 14. *E.* 3. c. 5. 18. *E.* 3. Stat. 3. 20. *E.* 3. c. 1. 2. 3; divers notable Oathes are prescribed to Iudges, Iustices and other Officers, and that they shall not delay nor forbeare to doe right for the kings great or little Seale, or any letters from him or any other, but goe forth to doe the Law, notwithstanding them: In the yeare 1375. the 50. of *Edward* the 3. his raigne, a [a] Parliament, (commonly called *the good Parliament* by our Historians) being assembled, the king required a Subsidie by reason of his warres; to which the Commons answered; that they could no longer beare such charges, considering the manifold most grievous burdens they had from time to time borne before: and that they knew full well, that the king was rich enough to defend him and his land, if his Land and the Treasure were well guided and governed; but it had beene long evill ruled by evill Officers, so that the Land could not be plenteous neither with Merchandize, chaffer, nor riches. By reason whereof, and of their importunate charges the Commonalty was generally impoverished. Moreover, the Commons complained upon divers Officers that were the causers of his mis-order, whereof the Lord *Latimer*, then Lord Chamberlaine was principall, and Dame *Alice Piers* the kings concubine, (who would usually in most impudent manner come in person into all Courts of Iustice, and sitting by the Iudges and Doctors, perswade or disswade them to judge against the Law for her owne advantage, on that side for which she was engaged; to the great scandall and dishonour of the king, both in his own and other Realmes:) and Sir *Richard Scurry* Knight, by whose Councells and sinister meanes the king was mis-guided, and the government of the Land disordered. Wherefore they prayed by the mouth of their Speaker, Sir *Piers de la Mare*, that the said persons with others, might be removed from the king, and others to be set in authority about his person, as should serve for his honour and for the weale of his Realme. Which request of the Commons by meanes of the Noble Prince *Edward* was accepted; so that the said persons, with the Duke of *Lancaster* and others, were removed from the king; and other Lords by *advise of the sayd Prince, and other wise Lords of the Realme; & per Parliamentum prædictum*, writes *Walsingham*, were put in their places, such as the Prince and Peers *thought fittest*. Moreover in this Parliament, at the Petition of the Commons it was Ordained, that certaine Bishops, Earles, and other Lords should from thence forth governe both the king and kingdome (the king being then in his dotage unable to governe himselfe or the kingdome) because the king was growne old and wanted such governours. This passage is thus expressed in the Parliament Roll of 50. *E.* 3. *numb.* 10. *Also the Commons considering the mischiefes of the Land shewed to King and Lords of the Parliament; that it shall be for the honour of the King and profit of all the Realme, which is now grieved in divers manners by many adversities, as well by the warres of France, Spaine, Ireland, Guyen. Bretaigne, and elsewhere, as likewise by the Officers who have beene accustomed to be about the King, who are not sufficient at all without other assistance for so great a government; wherefore they pray that the Councell of our Lord the King, be enforced (or made up) of the Lords of the Land, Prelates and others, to the number of 10. or 12. (which the King shall please) to remaine continually which the King in such manner, that no great businesse shall passe or be there decreed without all their assents and advise; and that other lesser businesses shall be ordered by the assent of 6. or 4. of them at least, according as the case*

[a] *Walsin. Hist. Ang.* p. 185. 186. 187. *Fabian.* part. 7. p. 260. *Graft.* p. 320. 321. *Speed.* p. 722. *Hol. Tpodig. Newst.* p. 134. 135.

caſe ſhall require; ſo that at leaſt 6. or 4. of ſuch Counſellors ſhall be continually reſident to councell the King And our Lord the King, conſidering the ſaid requeſt to be honourable and very profitable to him, and to all his Realme, hath thereto aſſented: provided alwayes that the Chancellour, Treaſurer, or Keeper of the Privy ſeale, and all other Officers of the King, may execute, and diſpatch the buſineſſes belonging to their Offices, without the preſence of the ſayd Councellours, the which the King hath aſſigned, &c. But this Ordinance laſted ſcarce three moneths, for after the Commons had granted a Subſidie of 4 pence the pole of all above 14 yeares old except beggers, Prince *Edward* dying, & the Parliament determining, theſe removed-ill-officers got into the Court, and their offices againe; and by the inſtance and power of *Alice Piers*, the Speaker, *D. la Mare* was adjudged to perpetuall priſon in *Notingham* Caſtle, (an act without example in former times, and which did no good in this) where he remained priſoner two yeares ſpace, though his friends very oft petitioned for his libertie: and [o] *John* a *Gaunt* Duke of *Lancaſter* (made Regent of the Realme becauſe of the Kings irrecoverable infirmity) ſummoning a Parliament the yeare following, repealed the Statutes made in this good Parliament, to the Subjects great diſcontent, who were earneſt ſuiters to the Duke for *D. la Mare* his inlargement and legall triall, which being denyed, the Londoners upon this and other diſcontents tooke armes, aſſaulted the Duke, ſpoyled his houſe at the Savoy, and hung up his armes reverſed, in ſigne of Treaſon in all the chiefe ſtreetes of *London*. But in the firſt yeare of *Richard* the ſecond, in a [p] Parliament at *London*, *Peter De la Mare* and almoſt all the Knights (which playd their parts ſo well in the good Parliament for the increaſe of their Countrey and benefit of the Realme:) reſuming their Petitions, cauſed *Alice Piers* (who contemning the Act of Parliament, and the oathes wherewith ſhe had bound her ſelfe, preſumed to enter the Kings Court, to perſwade and impetrate from him whatſoever ſhe pleaſed) to be baniſhed, and all her movables and immovables to be confiſcated to the King, notwithſtanding ſhe had corrupted with money, divers of the Lords and Lawyers of *England*, to ſpeake not onely privately, but publickely in her behalfe.

[o] *Walſing. Hiſt. Angl. An.* 1377. p. 187. *Fran. Thin* his Catalogue of Protectors. *Holinſh.* vol. 3. *Col.* 1076. 1077. *Walſ. Ypodigm. Neuſt.* p. 134. 135. 136. *Dan.* Hiſt. p. 257. 258. 259.

[p] *Walſin.* Hiſt *Angl. An.* 1. R 2 p. 198. 199. *Speed.* p. 728.

[*] *Mat Paris* Hiſt. p. 420. 421. *Daniel.* p. 157.

[*] *Anno Dom.* 1237. *King Henry* the 3d. ſommoning a Parliament at *London*, becauſe it ſeemed ſomewhat hard to ſequeſter all his preſent Counſell from him ſodenly as reprobate, it was concluded, that the Earle *Warran*, *William de Ferrariis*, and *John Fitz-Geofrey* ſhould be added to his Privie Counſell; whom the King cauſed to ſweare That by no meanes neither through gifts, nor any other manner they ſhould deviate from the way of truth, but ſhould give good and wholeſome councell both to the king himſelf and the Kingdome. Whereupon they granted him a Subſidie of the thirtieth part of their goods, upon condition; that from thenceforth, and ever after forſaking the Councell of ſtrangers and all unnaturall ones (*qui ſemper fuit & non Regni amic eſſ conſueverunt, & Regi bona d ſtrahere, non aduna e*) he ſhould adhere to the counſel of his faithfull and naturall ſubjects. *Et ſic ſoluto conſilio non ſine interiori murmuration & multa concepta indignatione, eo quod cum difficultate tanta Regis animum ad ſalubre conſilium contorquerent; & conſiliis eorum, a quibus omnem honorem terrenum habuit obſecundarent, ad propria quiſque reuerterit.* But this perfideous King, *& Regni deſpilidator*, as the Barons and Hiſtorians ſtile him, contrary to his ſolemne oath and promiſe would not be weaned from his evill Councellors but retained them ſtill, till by force of Armes they were removed and baniſhed.

[q] *Walſing. Hiſt. Angl.* p. 196. 197.

[q] In the 1. yeare of *Richard* the 2d, *William Courtney* Biſhop of *London*, *Edmond Mortymer* Earle of *March*, and many others of whom the Common people had the beſt opinion, being good, wiſe, and famous men, were by publicke conſent appointed Cour-

In (*l*) the 1. yeare of King *Henry* the 6. (being but 9. months old when the Crowne descended) the Parliament summoned by his Father *Henry* the 5. (as *Walsingham* writes) *was continued*; in *which By ASSENT OF ALL THE STATES, Humfry Duke of Glouceſter, WAS ELECTED AND ORDAINED DEFENDER AND PROTECTOR OF ENGLAND in the abſence of his elder Brother the Duke of Bedford; and all the Offices and Benefices of the Realm were committed to his diſpoſall.* In this Parliament (a ſtrange ſight never before ſeen in *England*) *this Infant King, ſitting in his Queen mothers lap, paſſed in Majeſtick manner to* Weſtminſter, *and there took ſtate among all his Lords, before he could tell what Engliſh meant, to exerciſe the place of Soveraign direction in open Parliament then aſſembled, to eſtabliſh the Crowne upon him.* In the *Parliament Rolls* of the 1. yeare of this King, I find many notable Paſſages pertinent to the preſent Theme, of which (for their rarity) I ſhall give you the larger account. Numb. 1. *There is a Commiſſion in this Infant Kings name directed to his Uncle Humfrey* Duke of Glouceſter, *to ſummon and hold this Parliament in the Kings Name and ſteed, and commanding all the Members of it, to attend the ſaid Duke therein: Which Commiſſion being firſt read; the Arch-biſhop of Canterbury* taking this Theame; *The Princes of the People are aſſembled with God;* declares, 4. *Cauſes for which the Parliament was principally ſummoned.* 1. *For the good governance of the perſon of the moſt excellent Prince the King.* 2. *For the good conſervation of the peace, and the due execution and accompliſhment of the Lawes of the Land.* 3. *For the good and ſafe defence of the Realme againſt Enemies.* 4. *To provide honourable and diſcreet perſons of every Eſtate, for the good governance of the Realme, according to* Iethro *his Counſell given to* Moſes, *&c.* Which Speech ended, Numb. 7, 8, 9, 10, 11. *The receivers of all ſorts of Petitions to the Parliament are deſigned,* and the Speaker of the Houſe of Commons preſented, and accepted. Numb. 12. *The Lords and Commons authorize, conſent to, and confirme the Commiſſion made to the Duke in the Infant Kings Name, to ſummon and hold this Parliament,* (ſo that they authorize and confirme that very power by which they ſate:) *With other Commiſſions made under the Great Seale to Iuſtices, Sheriffes, Eſcheators, and other Officers, for the neceſſary execution of Iuſtice.* Numb. 13. and 14. *The Biſhop of Durham, late Chancellour of England to Henry the 5 deceaſed; and the Biſhop of London Chancellour of the Dutchy of Normandy, ſeverally ſhew, that upon King Henry the 5. his deceaſe they delivered up their ſeverall Seales, after their homage and fealty firſt made, to King Henry the 6. in the preſence of divers honourable perſons (whom they name particularly) deſiring the Lords to atteſt their ſurrender of the ſaid Seales at the time and place ſpecified, which they did; and thereupon they pray, that a ſpeciall act and entry thereof may be made in the Parliament Rolls for their indemnity; which is granted and entred accordingly.*

(*l*) *Walſingh. Hiſt. Ang. p. 453. Hall. Graft. Fabian. Sp ced, Truſſel. 1. H. 6.*

Numb. 15. *It was enacted and provided by the ſaid Lord Commiſſioner, Lords and Commons; that in as much as the Inheritance of the Kingdomes and Crowns of France, England, and Ireland, were now lawfully deſcended to the King, which title was not expreſſed in the Inſcriptions of the Kings Seales, whereby great perill might accrue to the King, if the ſaid inſcriptions were not reformed according to his Title of Inheritance, that therfore in all the Kings Seals, as well in England as in Ireland, Guyen, and Wales, this new ſtile ſhould be engraven,* Henricus Dei Gratia, Rex Franciæ & Angliæ, & Dominus Hiberniæ, *according to the effect of his inheritances; blotting out from them whatever*

whatever was before in them superfluous or contrary to the said stile; and that commandment should be given to all the keepers of the said Seales of the King to reforme them without delay, according to the forme and effect of the new Seale aforesaid.

Numb. 16. *Duke Humfrey the Kings Commissary, and the other spirituall and temporall Lords being sate in Parliament, certaine Knights sent by the Speaker and whole House of Commons came before them, and in the name and behalfe of the said Commonalty requested the said Duke, that by the advise of the said Spirituall and Temporall Lords, for the good government of the Realme of England, he would be pleased to certifie the said Commons, to their greater consolation, what persons it would please the King to cause to be ordained for the Offices of Chancellor and Treasurer of England, and Keeper of his Privie Seale: Upon which request so made, due consideration being had, and full advise taken; and the sufficiencie of those persons considered, which deceased King Henry the Kings Father now, had in his discretion assigned to those Offices as fitting enough: the King following his Fathers example and advise, by the assent of the Lord Duke his Commissary, and of all and every one of the Lords spirituall and temporall, hath nominated and ordained a new, the Reverend Father,* Thomas *Bishop of Durham to the Office of his* Chancellour of England, William Kinwolmarsh *Clerk to the Office of Treasurer of England, and Mr.* John Stafford *to the Office of the Keeper of the Privy Seale. And hereupon the King our Lord willeth By* THE ASSENT AND ADVISE *aforesaid, that as well to the said Chancellor of England, as to the said Treasurer of England, and to the said Keeper of his Privy Seale for the exercise of the said Offices, severall letters patents should be made in this forme:* Henricus *Dei gracia Rex Angliæ & Franciæ & Dominus Hiberniæ, omnibus ad quos præsentes literæ pervenerint salutem.* Sciatis quod De AVISAMENTO ET ASSENSV TOTIVS CONSILII NOSTRI IN PRÆSENTI PARLIAMENTO NOSTRO EXISTENTES, *constituimus venerabilem patrem Thomam Episcopum Dunelmensem,* CANCELLARIVM *nostrum* ANGLIÆ; *dantes & concedentes* DE AVISAMENTO ET ASSENSV PRÆDICTIS, *eidem Cancellario nostro, omnes & omnimodas auctoritatem & potestatem ad omnia ea & singula quæ ad officium Cancellarii Angliæ, de iure siue consuetudine pertinent, seu quovis tempore pertinere consueverunt, &c. The like Patents verbatim, are in the same role (mutatis mutandis)* made to the said *Tresurer of England* and *keeper of the privy seale.* After which, *the said Duke, by advice and assent of the Lords spirituall and temporall sent the Arch-bishop of Canterbury, the Bishops of Winchester and Worcester, the Duke of Excester, the Earle of Warwicke, the Lords of Ferrers and Talbot to the Commons, then being in the Commons House, and notified to the Commonalty by the said Lords, these Officers to be nominated and ordained to the foresaid Offices in form aforesaid. Upon which notice so given* THE SAID COMMONS WERE WELL CONTENTED *with the nomination and ordination of the foresaid Officers so made, rendring many thanks for this cause to our Lord the King, and all the said Lords, as was reported by the said Lords in the behalfe of the Commons in the said Parliament.*

Numb. 17. *The Liberties, Annuities and Offices granted by King Henry the 5 and his Ancestors to Souldiers in forraigne parts, are confirmed by Parliament, and their grants ordered to be Sealed with the Kings new Seales without paying any Fine.*

Numb. 18. *Henry the 5. his last Will and the Legacies therein given, are confir-*

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med by the Kings Letters Patents, with the assent of the Lords and Commons in Parliament.

Numb. 19. *A subsidy is granted to be imployed for the defence of the Realme of England, to which end the Lord Protectour promiseth it shall be diligently imployed.*

Numb. 22. and 23. *The King by assent of all the Lords spirituall and temporall, wills and grants, that his deare Uncle* the Duke of Glouceſter *shall have and enjoy the Office of the* Chamberlaine of England, *and of the Constableship of the Castle of* Glouceſter *from the death of the Kings father, so long as it shall please the King, with all the fees, profits and wages thereunto belonging, in the same manner as they were granted to him by his Father.*

Numb. 24. *The 27. day of this Parliament, the tender age of the King being considered, that he could not personally attend in these dayes the defence and protection of his Kingdome of England, and the English Church; the same King fully confident of the circumspection and industry of his most deare Uncles,* John Duke of Bedford, *and* Humfrey Duke of Glouceſter, By *ASSENT AND ADVISE OF THE LORDS* as well Spirituall *as Temporall, and LIKEWISE OF THE COMMONS in this present Parliament, hath ordained and constituted his said uncle* Duke of Bedford, *now being in forraigne parts, PROTECTOR* and *DEFENDER OF HIS KINGDOM, and of the Church of England, and PRINCIPALL COVNSELLOR of our Lord the King; and that he shall both be and called* Protector and defendor of the Kingdom, and the Principal Councellor of the King himselfe *after he shall come into* England, *and repaire into the Kings presence; from thenceforth, as longe as he shall stay in the Kingdom; and it shall please the King. And further our Lord the King BY THE FORESAID ASSENT and ADVICE, hath ordained and appointed in the absence of his said Uncle the* D. of Bedford, *his foresaid uncle the* Duke of Glocester *now being in the Realm of England, PROTECTOR of his said Realme and the Church of England, and PRINCIPAL COVNCELLOR of our said Lord the King; and that the said Duke shall be, and be called PROTECTOR and DEFENDOR OF THE SAID REALM AND CHVRCH OF ENGLAND; and that letters pattents of the Lord the King shall be made in this form following: Henricus Dei gracia &c. Sciatis quod adeo tenera ætate constituti sumus, quod circa Protectionem & Defensionem Regni nostri Angliæ & Ecclesiæ personaliter attendere non possumus in presenti- Nos de circumspectione & industria charissimi avunculi nostri* Iohannis Ducis Bedfordiæ, *plenam fiduciam reportantes, DE ASSENSV ET AVISAMENTO TAM DOMINORVM, QVAM DE ASSENSV COMMVNITATIS DICTI REGNI ANGLIÆ IN INSTANTI PARLIAMENTO existentium, ordinavimus & constituimus ipsum avunculum nostrum, dicti Regni nostri Angliæ & Ecclesiæ Anglicanæ PROTECTOREM ET DEFENSOREM, AC CONSILIARIVM NOSTRVM PRINCIPALEM; & quod ipse dicti Regni nostri Angliæ & Ecclesiæ Anglicanæ Protector & Defensor, ac principalis consiliarius noster sit, & nominetur, in & iuxta vim formam & effectum cujusdam articuli IN DICTO PARLIAMENTO die datus præsentium habiti ET CONCORDATI: Proviso semper, quod præfatus Avunculus noster, nullum hab-*

aut gerat vigore præſentium poteſtatem, nec ſicut præfatur nominetur, niſi pro tempore quo præſens hic in regno noſtro Angliæ fuerit, & PROVT IN PRÆDICTO ACTO CONTINETVR. *Quodque cariſſimus Avunculus noſter Dux Gloceſtriæ, nobis in agendis dicti Regni negotiis poſt ipſum Avunculum noſtrum* Ducem Bedfordiæ PRINCIPALIS CONSILIARIVS EXISTAT ET NOMINETVR, *quociens & quando præfatum Avunculum noſtrum* Ducem Bedfordiæ *infra Regnum noſtrum* Angliæ *morari contingat. Confidentes inſuper ad plenum de circumſpectione & induſtria prædicti Avunculi noſtri* Ducis Gloceſtriæ *DE ASSENSV ET AVISAMENTO PRÆDICTIS, ordinavimus & conſtituimus ipſum Avunculum noſtrum* Ducem Gloceſtriæ, *dicto Regno noſtro Angliæ jam præſentem, dicti Regni noſtri Angliæ & Eccleſiæ Anglicanæ PROTECTOREM ET DEFENSOREM, necnon CONSILIARIVM NOSTRVM PRICIPALEM, quociens & quando dictum avunculum noſtrum Ducem* Bedfordiæ, *extra Regnum noſtrum* Angliæ *morari & abeſſe contingat. Et quod ipſe avunculus noſter Dux* Gloceſtriæ *Protector & Defenſor Regni noſtri* Angliæ, *& Eccleſiæ Anglicanæ, & Principalis Conſiliarius noſter SIT ET NOMINETVR, IVXTA VIM FORMAM & EFFECTVM ARTICVLI PRÆDICTI. Proviſo ſemper, quod præfatus avunculus & Dux* Gloceſt. *nullum gerat aut habeat vigore præſentium poteſtatem, vel ut præfertur nominetur, niſi pro tempore quo præſens hic in Regno noſtro* Angliæ *fuerit in abſentia dicti avunculi noſtri Ducis* Bedford. *& prout in prædicto articulo continetur. Damus autem univerſis & ſingulis Archiepiſcopis, Epiſcopis, Abbatibus, Prioribus, Ducibus, Comitibus, Baronibus, Militibus, & omnibus aliis fidelibus noſtris dicti Regni noſtri Angliæ quorum intereſt, tenore præſentium firmiter in mandatis, quod tam præfato avunculo noſtro Duci* Bedford. *quociens & quando protectionem & defenſionem hujuſmodi ſic habuerit & occupaverit, quàm præfato avunculo noſtro Duci* Gloceſtriæ, *quociens & quando ipſe conſimiles Protectionem & Defenſionem habuerit & occupaverit in præmiſſis faciendis, pareant obediant & intendant prout decet. In cujus rei teſtimonium &c.* which Act and Commiſſion *thus made, and the tenour of them being recited before the ſaid* Duke of Gloſter, *and ſpirituall and temporall Lords; the ſaid* Duke having *deliberated thereupon, undertook, at the requeſt of the ſaid Lords, the burthen and exerciſe of his occupation, to the honour of God, and profit of the King and Kingdome. Proteſting notwithſtanding, that this his aſſumption or conſent in this part ſhould not any wayes prejudice his foreſaid Brother, but that his ſaid Brother at his pleaſure might aſſume his burthen of this kinde, and deliberate and adviſe himſelfe.*

Numb. 25. *It is ordered by this Parliament, what under Offices and Benifices the Lords Protectors ſhould conferre, and in what manner.* Numb. 26. *After the Lords and Commons in Parliament had ſetled and ordained the Protectors in forme aforeſaid,* AT THE REQUEST OF THE SAID COMMONS, *there were,* BY ADVISE AND ASSENT OF ALL THE LORDS *certaine perſons of eſtate, as well ſpirituall as temporall,* NAMED AND ELECTED TO COUNSELL AND ASSIST THE GOVERNANCE; *whoſe names written in a ſmall ſcedule, and read openly, were theſe;* the Duke of Gloceſter, the Archbiſhop of Canterbury, the Biſhops of London, Wincheſter, Norwich, Worceſter; the Duke of Exceſter, the Earles of March, Warwick, Marſhall, Northumberland,

humberland, Westmerland; the Lord Fitz-hugh, Mr Hugh Crumbwell, Mr Walter Hungerford, Mr Iohn Tiptoft, Mr Walter Beauchamp. Numb 25 *These persons thus* NAMED and CHOSEN COVNSELLORS and ASSISTANTS, *after this nomination and election, condiscended to take such assistance to the government in manner and forme contained in a paper scedule written in English, with their names thereto, containing five speciall articles, delivered in Parliament by the said persons chosen Counsellors assistants, of which scedule this is the tenure.*

The Lords aboveſaid, been condiſcended to take it upon hem, in manner and forme that ſueth: Firſt, *for as much as execution of Law and keeping of peace ſtart much in Iuſtice of peace, Sheriffs and Eſcheators, the profits of the King, and revennes of the Realme been yearly encreaſed, and augmented by Cuſtomers, Controllers, priſers, Seachers, and all ſuch other Offices; therefore the ſame Lords woll and deſireth, that ſuch Officers, and all other be made, by adviſe and denomination of the ſaid Lords, ſaved alwayes and reſerved to my Lords of* Bedford, *and of* Gloceſter, *all that longeth unto them, by aſpeciall Act made in Parliament; and to the Biſhop of* Wincheſter *that he hath granted him by our Soveraigne Lord that laſt was, and by authority of Parliament confirmed.*

Numb. 29. Item, *that all manner Wards, Mariages, Farmes, and other caſualties that longeth to the Crowne, when they fall, be letten, ſold, and diſpoſed by the ſaid Lords of the Counſell; and that indifferently at deareſt, without favour, or any manner partialtie or fraud.*

Numb. 30. Item, *that if any thing ſhould be enact done by Counſell, that ſix or foure at the leaſt, without Officers, of the ſaid Counſell be preſent; and in all great matters that ſhall paſſe by Counſell, that all be preſent, or elſe the more party. And if it be ſuch matter as the King hath be accuſtomed to be counſelled of, that then the ſaid Lords procced not therein without the adviſe of my Lord of* Bedford, *or of* Gloceſter.

Numb. 31. Item, *for as much as the two Chamberlaines of the Exchequer be ordained of old time to controule the receipts and payments in any manner wiſe maed; the Lords deſireth, that the Treaſurer of England being for the time, and either of the Chamberlaines have a key of that that ſhould come into the receipt, and that they be ſworne to ſore my Lord of* Gloceſter, *and all the Lords of the Counſell; that for no friendſhip they ſhall make no man privy, but the Lords of the Counſell, what the King hath in his Treaſorie.*

Numb. 32. Item, *that the Clerk of the Counſell be charged and ſworne to truly enact and write daily the names of all the Lords that ſhall be preſent from time to time, to ſee what, how, and by whom any thing paſſeth.*

Numb. 33. And after that all the Lords aforeſaid had read before them the ſaid Articles in Parliament, and had well conſidered of them, and fully aſſented and accorded to them; the ſcedule of paper, by certaine of the Honourable Lords of Parliament on behalfe of the King and all the Lords in Parliament, was ſent and delivered to the Commons to be aſcertained of their intent: whereupon after the ſaid Commons had adviſed, the ſaid Lords repeated in the ſaid Parliament, that the Commons thanked all the Lords, and that THEY WERE WELL CONTENTED with all there contained in the ſaid ſcedule, WITH THIS, that to the firſt of the ſaid Articles there ſhould be added one clauſe of parveiu, which the ſaid Lords repeated on the behalfe of the ſaid Commons, who delivered it to them in

Parliament in one parchment ſcedule written in French, the tenour whereof enſueth.

Provided alwayes that the Lords, and other perſons, and Officers, which have eſtate, and authority, ſome of inheritance, ſome for terme of life, and otherwiſe, to make and inſtitute, by vertue of their offices, deputy Officers, and Miniſters, which appertaine to them to make of right; and as annexed to them, and to their offices of ancient time accuſtomed and uſed; ſhall not be reſtrained nor prejudiced, of that which appertaines to them by colour of this Ordinance or appointment. To which parchment ſcedule, and the contents thereof, read before the Lords in Parliament, the ſaid Lords well agreed, and fully conſented.

Numb. 44. The *Queen Mothers dower formerly agreed, appointed, and ſworne to by all the three eſtates in Parliament in 9. H. 5. was now againe, upon her Petition, confirmed and ſetled by the Parliament, after her husbands deceaſe.* And Numb. 41. Pet. 2. *The Commons petitioned, that it might then be enacted, that no man nor woman ſhould thenceforth be compelled nor bound to anſwer before the Counſell or Chancery of the King, nor elſewhere, at the ſuit or complaint of any perſon for any matter; for which remedy by way of Action was provided by the Common law; and that no privy Seale, nor ſubpœna ſhould iſſue thence, before a Bill were firſt there exhibited, and alſo fully allowed by two Iudges of the one Benchand other, that the complainant for matters and grievances in the ſaid Bill could have no action, nor remedy at all by the common law, &c.* A good Law to prevent the Arbitrary proceedings of theſe Courts which are now too frequent, in ſubvertion of the Common law. Lo here in this Parliament, we have a Lord Protector, Chancellor, Treſurer, Keeper of the privy Seale, Chamberlaine, Privy Counſellors, Conſtables of Caſtles, and moſt other Officers of the King elected by Parliament; yea, a Commiſſion for calling and holding this Parliament, confirmed by this Parliament when met; the Kings owne publike ſeales altered and new made; a new ſtile conferred on the King, a Kings laſt will, and a Queens Dower, when fallen, confirmed by the Parliament, and the privy Councell, Court of Requeſt, and Chancery limited by it, without any diminution of the Kings prerogative royall: what injury or diſparagement then can it be to his Majeſties royalties, to have his great Officers, Counſellers, and Judges, thus nominated and regulated in and by Parliament at this preſent? ſurely none at all.

In the Parliament Rolls of 4. *H.* 6. num. 8. I finde *a Commiſſion granted to* Iohn *Earle of* Bedford, *under the great ſeale (which was read in Parliament) to ſupply the Kings place, and power in this Parliament, and to doe all that the King himſelfe, either might or ought to doe therein; becauſe the King* (by reaſon of his minority) *could not there perſonally attend to doe it.* Numb. 10. *The Commons, by a Petition, lamentably complained of the great diſcords and diviſions betweene certaine great Lords, and privy Counſellors of the Kingdome; and more eſpecially,* betweene the Duke of *Gloceſter* Lord Protector, and the Biſhop of *Wincheſter* Lord Chancellor, *by which divers inconveniences might happen to the Realme, if not ſpeedily accommodated: deſiring the Duke of* Bedford, *and other Lords to accord them; Vpon which the Lords tooke a ſolemne Oath to reconcile them, and made an accord between them; which you may read at large in* (m) Hall, (n) Holinſhed, *and* (o) *other our Hiſtorians,* and in the Parliament Rolls, Numb. 12. 13. On the 13. day of March. Numb. 14. *The Biſhop of* Wincheſter, *Lord Chancellor of England, for certaine cauſes declared before the Lord*

(m) 4. H. 6. f. 94. to 100
(n) vol. 3, 4, H. 6, p. 590, to 600.
(o) Fox vol. 1, p. 922, to 925, Speed, Fabian, Graſton, Stow, Truſſel, in 4, H. 6.

Lords in Parliament, instantly desired to be discharged of his Office, which causes they considering of and allowing, he was by the Lords discharged from his said Office: and the same day in like manner the Bishop of Bathe, *Treasurer of England, requested to be freed from his Office, which was that day done accordingly.* Numb. 14. *On the eighteenth day of* March, *John* Bishop of Bathe and Wells, *late Treasurer of England, by vertue of a privy seale directed to him, brought the Kings great golden seale, sealed up in a leather Bagge, into the Parliament, and really delivered it to the Earle of* Bedford, *the Kings Commissary; who receiving it of the said Bishop, caused it to be taken out of the Bagge, and to be seene of all, and then to be put into the Bagge againe; who sealing the Bagge with his signet, he delivered it to be kept, to the Bishop of* London, *then* CHANCELLOR OF ENGLAND, BY ADVISE *and* ASSENT *of the Lords spirituall and temporall, in that Parliament.* Numb. 18. *The King by the advise of the Lords spirituall and temporall, and by the assent of the Commons in Parliament, makes an exchange of* Lewes de Burbon, *Earle of Vandosme taken prisoner at the battell of* Agencourt, *for the Earle of* Huntingdon, *taken prisoner by the French; releasing the said Earle* Vandosme *of his Ransome, and Oath.* Numb. 19. The Duke of Bedford, *Constable of the Castle of Berwick, petitioned, that the King,* BY AVTHORITY OF PARLIAMENT *(in regard of his absence from that charge, by reason of his continuall employments in the Kings service in France, and elsewhere) might license him, to make a Lievtenant under him to guard that Castle safely: Upon which Petition, the Lords spirituall and temporall granted him power to make a sufficient Lievtenant, such as the Kings Counsell should allow of; so as the said Lievtenant should finde such reasonable sureties for the safe keeping of the said Castle, as the Kings Counsell should approve.* And in this Parliament, (p) BY ASSENT OF THE THREE ESTATES OF ENGLAND, *Richard Beauchamp Earle of* Warwick *was ordained to be Governour of the young King, in like manner as the Noble Duke of Exceter was before appointed and designed; to execute which charge he was sent for out of France the yeare following.* In the three and thirtieth yeare *of this Kings reign* * Richard *Duke of* York *was made Protector of the Realme, the Earle of* Salisbury *was appointed to be Chancellor, and had the great seale delivered to him; and the Earle of* Warwick *was elected to the Captainship of* Calice, *and the territories of the same, in and* BY THE PARLIAMENT: *by which the rule and Regiment of the whole Realme consisted only in the heads, and orders of the Duke, and Chancellor; and all the warlike affaires and businesse rested principally in the Earle of* Warwick. From which Offices the Duke and Earle of *Salisbury* being after *displaced*, by emulation, envy and jealousie of the Dukes of *Somerset, Buckingham*, and the Queene, a bloody civill warre thereupon ensued: after which (q) Anno 39. *H.* 6. this Duke, *by a solemne award made in Parliament betweene* Henry *the sixth and him, was againe made* PROTECTOR AND REGENT OF THE KINGDOM. By the Statutes of 25 *H.* 8. *c.* 22. 28. *H.* 8. *c.* 7. and 35. *H.* 8. *c.* 1. it is evident, *that the power and Right of nominating a Protector and Regent, during the Kings minority, belongs to the Parliament and Kingdome; which by these Acts authorized* Henry *the eighth, by his last Will in writing, or Commission under his seale, to nominate a Lord Protector, in case he died, during the minority of his heire to the Crowne; and the (r) Duke of* Somerset *was made Lord Protector of the King and Realme, during King* Edward *the sixth his nonage,*

(p) Hals Chron: 4, H, 6. f. 100, Grafton, p. 523. Holinshed, vol, 3. p, 1079: and Francis Thin, ibid, Howes, and Stowes Chron: p, 400, 404.

(*) Hall, Grafton, How, Speed An. 33. H. 6. & 34.

(q) Hall, An. 38, and 39. H. 6, f. 176, to 183, Fabian, p, 470. Grafton, p, 643, to 648.

(r) Speed histery, p, 1108.

BY

BY PARLIAMENT; And not to trouble you with any more examples of this kinde, Mr *Lambard* in his *Archaion*, p. 135. *Cowell* in his Interpreter, title *Parliament*, Sr *Henry Spelman* in his *Gloſſarium*, tit. *Cancellarius* (out of *Matthew Weſtminſter*, An. 1260. 1265.) *Francis Thin*, and *Holinſhed*, vol. 3. col. 1073. to 1080. 1275. to 1286. and Sir *Edward Cooke* in his Inſtitutes on *Magna Charta*, f. 174. 175. 558. 559. 566. acknowledge and manifeſt, *That the Lord Chancellor, Treaſurer, Privy Seale, Lord chiefe Iuſtice, * Privy Counſellors, Heretochs, Sheriffs, with other Officers of the Kingdome of England, and Conſtables of Caſtles, were vſually elected by the Parliament, to whom OF ANCIENT RIGHT THEIR ELECTION BELONGED:* who being commonly ſtiled, *Lord Chancellor, Treaſurer, and chiefe Iuſtice, &c. OF ENGLAND*, not of the King, were of right elected by the repreſentative Body of the Realme of England, to whom they were accomptable for their miſdemeanors. Seeing then it is moſt apparent by the premiſes, that the Parliaments of England have ſo frequently challenged and enjoyed this right and power of electing, nominating, recommending, or approving all publike Officers of the Kingdome in moſt former ages, when they ſaw juſt cauſe; and never denuded themſelves wholly of this their intereſt by any negative Act of *Parliament* that can be produced: I humbly conceive, it can be no offence at all in them (conſidering our preſent dangers, and the manifold miſchiefes the Kingdome hath of late yeares ſuſtained by evill Counſellors, Chancellors, Treaſurers, Iudges, Sheriffs, with other corrupt publike Officers) to make but a modeſt claime (by way of petition) of this their undoubted ancient right, nor any diſhonour for his Majeſty, nor diſparagement to his royall prerogative, to condiſcend to their requeſt herein, it being both an honour, and benefit to the King to be furniſhed with ſuch faithfull Counſellors, Officers, Iudges, who ſhall cordially promote the publike good, maintaine the Lawes, and ſubiects Liberties, and doe equall iuſtice unto all his people, according to their oathes and duties; unfaithfull and corrupt officers being dangerous, and diſhonourable, as well to the King as Kingdom, as all now ſee and feele by wofull experience. In few words; *If the (s) Chancellors, Iudges, and other Officers power to nominate three perſons to be Sheriffe in every County annually (of which his Majeſty by law is bound to pricke one, elſe the election is void, as all the * Iudges of England long ſince reſolved)* and their *authority to appoint (t) Iuſtices of the Peace, Eſcheators, with other under Officers in each ſhire*, be no impeachment at all of the Kings prerogative, as none ever reputed it; or if both Houſes ancient priviledge, to *(v) make publike Bills for the publike weale, without the Kings appointment, and when they have voted them for lawes, to tender them to the King for his royall aſſent*, be no diminution to his Soveraignty: then by the ſelfeſame reaſon, the *Parliaments* nomination, or recommendation of Counſellors, State-officers, and Iudges, to his Maieſty, with a liberty to diſallow of them if there be iuſt cauſe aſſigned, can be no encroachment nor iniury at all to his Maieſties royalties; it being all one in effect, to recommend new lawes to the King for his royall aſſent, when there is need, as to nominate meet Officers, Counſellors, Iudges, to him, to ſee theſe Lawes put in due execution. So that upon the whole matter, the finall reſult will be; That the *Parliaments* claime of this their ancient right, is no juſt ground at all on his Maieſties part, to ſever himſelfe from his *Parliament*, or to be offended with them, much leſſe to raiſe or continue a bloody warre againſt them.

* *See Matth. Paris. p. 421.*

(s) 14. *E.* 3, *c.* 7. 28, *E.* 3, *c.* 7. 42. *E.* 3, *c.* 9.

(*) 12, *R.* 2, *c.* 2, 1. *R.* 2, *c.* 11 *Cookes Inſtit. on Mag. Chart. f.* 558, 559. 566.

(t) 1 *E.* 3. *c.* 16 14. *E.* 3. *c.* 7. and 12, *R.* 2. *c.* 2. 34. *E.* 3. *c.* 1 38. *E.* 3. *ſtat* 2. *c.* 1, 4 *H.* 4, *c.* 18, 2 *H.* 5. *ſtat.* 2. *c.* 1, 8. *R.* 2. *c.* 9. ſee *Raſtal's Abridgment*, Title, Iuſtices of Peace, Cuſtomers, &c.

(v) *Modus tenendi Parliamentum*; *Holinſheds* deſcription of *England c.* 8, *p.* 173. and *Annals*, of *Ireland*, *p.* 127. &c. 1 *Iac. c.* 1. Mr. *Hackwels* manner of paſſing Bills.

That

That the King hath no absolute Negative voyce in the passing of Bills of Common Right and Iustice, for the publike good.

THe fourth great Objection or Complaint of the King, Malignants, Royalists against the Parliament is; *That they deny the King a negative Voyce in Parliament*; affirming in (y) some Declarations; *That the King by his Coronation Oath and duty, is bound to give his royall assent to such publike Bills of Right and Iustice, as both houses have voted necessary for the common wealth, or safety of the Realme*, and ought not *to reject them*: Which is (say they) an absolute deniall of his royall Prerogative, not ever questioned or doubted of in former ages.

To this I answer first in generall. That in most proceedings and transactions of Parliament the King hath no casting nor absolute negative voyce at all; as namely in (z) *reversing erronious Iudgments given in inferiour Courts; damning illegall Patents, Monopolies, Impositions, Exactions, redressing, removing all publike grievances or particular wrongs complained of; censuring or judging Delinquents of all sort; punishing the Members of either house for offences against the Houses; declaring what is Law in cases of difficulty referred to the Parliament* (of which there are (a) *sundry presidents.*) In these, and such like particulars, the King hath no swaying negative voice at all, but the houses may proceed and give Iudgement, not only without the Kings personall presence or assent) as the highest Court of Iustice, but even against his personall Negative vote or dissassent, in case he be present, as infinite examples of present and former times experimentally manifest beyond all contradiction. Nay, not only the Parliament, but Kings Bench, Common Pleas, Chancery, and every inferior Court of Iustice whatsoever, hath such a Privilege by the *Common law and* (b) *Statutes of the Realm, that the King himself hath no negative voice at all so much as to stay, or delay for the smalest moment by his great or privy seale any legall proceedings in it, much lesse to countermand, controle, or reverse by word of mouth or proclamation, any resolution or judgement of the Iudges given in it*: If then the King hath no absolute Negative overruling voice in any of his inferiour Courts; doubtlesse he hath none in the supremest greatest Court of all the Parliament; which otherwise should be of lesse authority, and in farre worse condition then every petty sessions, or Court Baron in the Kingdome.

The sole question then in debate must be; *Whether the King hath any absolute Negative over-ruling voice in the passing of publike or private Bills?*

For resolving which doubt, we must thus distinguish: That publike or private Bills are of two sorts. First, Bills only of meere grace and favour; not of common right: such are all generall pardons, Bills of naturalization, indenization, confirmation, or concession of new Franchises, and Priviledges to Corporations, or private persons, and the like; in all which the King, no doubt, hath an absolute negative voice to passe or not to passe them; because they are *acts of meere grace (which delights to be ever free and arbitrary,) because the king by his oath and duty, is no way obliged to assent thereto; neither can any subjects of iustice or right require them at his hands, it being in the Kings free power, to dispence his favours freely when and where he pleaseth*, and (c) *contrary to the very nature of free grace, to be either merited or constrained.* Secondly Bills of common right and justice, which the King by duty and oath is bound to ad-

(x) See his Majesties Answer to the Lords and Commons Remonstrance May 26, 1642.
(y) The Remonstrance of the Lords and Commons May 26, and Nov. 2, 1642.
(z) See *Athes* Tables, errour 65, to 70. 21, *Iac.* c. 13. *Cromptons* Iurisdiction of Courts, f. 1. to 20. *Smiths* Common wealth. l. 2, c. 1, 2. 15. *E.* 3. c. 2. 3.
(a) *Bracton*, l. 1. c. 2. 2 *E.* 3. f. 7. Regist. Fol. 271. *Westm.* 2. c. 28. 14. *E.* 3. c. 5. 25 *E.* 3. stat. 2. of these that are borne beyond the seas.
(b) Magna Charta. c. 29. and *Cookes* Institutes ibid. 2 *E.* 3. c. 8. 14 *E.* 3. c. 14. 15 *E.* 3. c. 2. 3. 18 *E.* 3. stat. 3. 20 E 3. c. 1. 2. 1 *R.* 2. c. 2. 11 *R.* 2. c. 19.
(c) Rom. 9. 15, 16. c. 11. 6. Nisi gratuita non est gratia *August. De Natura & gratia.* l. 1. c. 31. 36 *E.* 3. the Pardon.

E. 3. c. 4. 5 c *E.* 3. c. 3. 1 *R.* 2. c. 10. 2 *R.* 2. c. 7. 1 *H.* 4. c. 20. 4 *H.* 4. c. 1. 6 *R.* 2. c. 13. stat. 2. c. 1. and all generall acts of Pardon.

minister to his whole Kingdome in generall, and every subject whatsoever in particular without denyall or delay: Such are all Bills for the preservation of the publike peace and safety of the Kingdome; the Liberties, Properties, and Privildges of the Subject; the prevention, removeall, or punishment of all publike or private grievances mischiefes, wrongs, offences, frauds in persons or callings; the redresse of the defects or inconveniences of the Common Law; the advancing or regulating of all sorts of Trades; the speedy or better execution of Justice, the Reformation of Religion, and Ecclesiasticall abuses, with sundry other Lawes, enacted in every Parliament as occasion and necessity require. In all such Bills as these, which the whole state in Parliament shall hold expedient or necessary to be passed, I conceive it very cleare, that the King hath no absolute negative voyce at all, but is bound in point of Office, duty, Oath, Law, Justice, conscience, to give his royall assent unto them when they have passed both houses, unlesse he can render such substantiall reasons against the passing of them, as shall satisfie both Houses. This being the onely point in controversie, my reasons against the Kings absolute over-swaying negative Voyce to such kinde of Bills as these, are;

(d) 2 Sam. 3. 3. 2 Chron 9, 8, Ezek. 45. 8 9. Est. 1, 13, to 22, Dan. 3, 29 2 Chron. 30. 1, 108, 3. 1 Chron, 13, 1, 107, Est. 9. 27. 3032.

Firſt, because being Bils of comon right and Justice to the Subjects, the denyal of the Royal assent unto them is directly contrary to the Law of God, which (d) *commandeth Kings to be just, to doe judgement and justice to all their Subjects, especially to the oppressed*, and not to deny *them any just request for their reliefe, protection or wellfare.*

Secondly, because it is point-blanke against the very letter of *Magna Charta* (the ancient fundamentall Law of the Realme, confirmed in at least 60. Parliaments) *ch.* 29. WE SHALL DENY, WE SHALL DEFERRE (both in the future tense) TO NO MAN (much lesse to the whole Parliament and Kingdome, in denying or deferring to passe such necessary publike Bills) JUSTICE OR RIGHT. A Law which in *terminis* takes cleane away, the Kings pretended absolute negative Voyce to these Bills we now dispute of.

(e) See d before, Bracton, l. 1. c. 2. l. 3. c. 9. Fortiscue. c. 9. to 15. Cooke. l. 7. f. 5. 1. Calvins case.

Thirdly, Because such a dissenting Voyce to Bills of this nature, is inconsistent with the very (e) *office, duty of the King, and the end for which he was instituted: to wit, the equall and speedy administration of common right, justice, and assent to all good Lawes for protection, safety, ease, and benefit of his Subjects.*

(f) Page 29. to 60.

Fourthly, Because it is repugnant to the very Letter and meaning of the Kings Coronation Oath solemnly made to all his Subjects; TO GRANT, FULFILL, and Defend ALL RIGHTFULL LAWES which THE COMMONS OF THE REALME SHALL CHUSE, AND TO STRENGTHEN AND MAINTAINE THEM *after his power.* Which Clause of the Oath (as I formerly manifested at large, and the Lords and Commons in their Remonstrances of *May* 26. and (f) *Nov.* 2. prove most fully) extends only, or most principally to the Kings Royall assent to such new rightfull and necessary Lawes as the *Lords and Commons in Parliament*, (not the King himselfe) *shall make choise of.* This is infallibly evident, not onely by the practise of most of our Kings in all former Parliaments, (especially in King *Edward* the 1, 2, 3, 4. *Rich.* 2. *Hen.* 4, 5. and 6. reignes) whereof the *first Act commonly in every Parliament* was, *the confirmation of Magna Charta, the Charter of the Forest, and all other former unrepealed Lawes*; and then follow sundry new Acts which the Lords and Commons made choise of as there was occasion, and our Kings readily

ſented to, (confeſſing *they were bound to doe it by their Coronation oath and duty*, as I ſhall manifeſt preſently:) but likewiſe by the words of the Coronation Oaths of our ancienter Kings, already cited in the firſt part of this Diſcourſe; and of our Kings Oaths of latter times: The (g) *Coronation Oaths of King Edward the* 2. *and* 3. remaining of Record in *French*, are in the future tenſe. *Sire, grantes vous a tenir et garder LES LEYS et les Conſtumes DROITVRELES les quiels LA COMMVNANTE de voſtre Royaume AVR ESLV, & les defenderer et afforcerer al honeur de Dieu a voſtre poare?*

(g) See, the Remonſtrance of the Lords and Commons *Nov.* 2. 1642 *p.* 35, 36, 37, 38.

Reſponſ. Je le FERAY, in the future, too.

The cloſe Roll of *An.* 1. *R.* 2. *M.* 44. recites this clauſe of the Oath which King (h) *Richard* took in theſe words; *Et etiam de tuendo & cuſtodiendo IVSTAS LEGES & conſuetudines eccleſiæ, ac de faciendo per ipſum Dominum Regem, eas eſſe protegendas, & ad honorem Dei CORROBORANDAS quas VVLGVS IVSTE ET RATIONABILITER ELEGERIT juxta vires ejuſdem Domini Regis*, in the future tenſe. And Rot: Parliament, 1 *H.* 4. n. 17. expreſſeth the clauſe in King *Henry* his Oath, thus: *Concedis IVSTAS LEGES & conſuetudines eſſe tenendas, & promittis perte eas eſſe protegendas & ad honorem Dei CORROBORANDAS QVAS VVLGVS ELEGERIT ſecundum vires tuas. Reſpondebit; Concedo & Promitto.*

(h) See, Walſingham. Hiſt. Angl 1 R. 2. p. 192, 193, 194. where the whole manner of his Coronation is expreſſed at large.

In the Booke of *Clarencieux Hanley*, who lived in King *Henry* the 8. his reigne, this clauſe of the Oath (which this King is ſaid to take at his Coronation) is thus rendred in Engliſh: *Will you GRANT, FVLFILL, defend ALL RIGHTFVLL LAWES and Cuſtomes, the which THE COMMONS OF YOVR REALME SHALL CHVSE* (in the future, and where but in the Parliament Houſe when and where they meet together to make good Lawes?) *and ſhall ſtrengthen and maintaine to the worſhip of God, after your power?* The King ſhall anſwer, *I grant and behete*. But that which puts this paſt all doubt, is the Coronation Oath of King *Edward* the 6. thus ſworn by the Lord Protector and Kings Counſell in words, but not ſence. *Doe you grant to make NO NEW LAWES, but ſuch as SHALL BE to the honour and glory of God, and to the good of the Common-wealth, and that the ſame SHALL BE MADE BY CONSENT OF YOVR PEOPLE, AS HATH BEEN ACCVSTOMED?* Where this clauſe of the Oath, referres wholly and onely to future new *LAWES*, to be choſen and made by the Peoples conſent, not to Lawes formerly enacted. And certainly it muſt do ſo, elſe there would be much Tautology in this ſhort ſolemne Oath, unſutable to the grave wiſdome and judgement of an whole Kingom to preſcribe and continue for ſo many ages, and for our Kings in diſcretion to take: For the firſt clauſe of the Oath both in the Latin, French, and Engliſh Copies of ancient and preſent times, is this *Sir will you grant and keep, and by your Oath confirme to the people of* England; *THE LAWES AND CVSTOMES GRANTED TO THEM BY ANCIENT KINGS OF ENGLAND, rightfull men, and devout to God; and namely the Lawes and Cuſtomes, and Franchiſes granted to the Clergy and to the people by the glorious King* Edward, *to your power?* Which Clauſe relating to all Lawes and Cuſtomes granted by former Kings to the people; if this latter clauſe ſhould be in the *pretertence* too, HATH CHOSEN (as the *King* and his miſtaken Counſel object) it would be a meer Surpluſage, or Battology, yea the ſame in ſubſtance with the firſt part of the Oath, and our Kings ſhould be onely bound by

their oathes to observe their Ancestors Lawes, not their owne as they now argue, (the reason perchance why the *Petition of Right*, and our other new Lawes are so ill observed) which is ridiculous to imagine. And where they object, that *the word* CVSTOMS *joyned to lawes in the last clause, cannot be meant of such Customes as the people shall chuse after the Oath made, because all Customes are, and must be time out of minde.* The Answer is very easie; For *Customes* heereare not taken strictly for ancient usages time out of minde; but for *Statutes, Franchises*, just *Liberties*, or *Taxes* for the Kingdoms defence, chosen & freely granted by the Commons or people, and to be confirmed by the King in Parliament; as appears by the first clause of the oath, *the laws & customs granted to them by the ancient Kings of England.* And by (*i*) *Bracton* himself, who expounds this clause of the oath to relate to future Laws, newly made by our Kings after their Coronations, in this observable passage. *Hujusmodi vero leges Anglicanæ &* CONSVETVDINES, *regum authoritate jubent quandoque, quandoq; vetant, & quandoque vindicant, & puniunt transgressores*; quas quidem cum FVERINT APPROBATÆ CONSENSV VTENTIVM ET SACRAMENTO REGVM CONFIRMATÆ, *mutari non poterunt nec destrui,* SINE COMMVNI CONSENSV EORVM OMNIVM, *quorum* CONSILIO ET CONSENSV FVERVNT PROMVLGATÆ. Now no *Customes properly so called, can commence by way of grant, especially of the King alone; but only by the people and common usage for a good space of time (as the Customes of Gavelkinde, Burrough English*, and such like, never granted nor commenced by Charter or Act of Parliament, did;) *and if the King by Charter or Act of Parliament, should grant a new Custome, before it were a Custome in this sense, it would be utterly void in law, because there was no such custome then in being, and no grant or act can make or create a custome or prescription that had no former being.* Therefore Custome in this oath, coupled with just and reasonable, must needs be meant only of such just and reasonable *statutes, liberties, penalties, immunities, aides, taxes, or services for the subjects ease and benefit, and the publike service*, as they upon emergent occasions shall make choice of in Parliament; of whose justnesse and reasonablenesse not the King alone, but the grand Councell of the Kingdom (assembled in the Parliament, to this very end, to judge of, make, and assent to just and profitable Laws) are and ought to be the proper Judges, as I have elsewhere manifested; and the very words of the oath, *QVAS VVLGVS ELIGERIT*, to which *justas leges & consuetudines* relates, resolve beyond contradiction. And King *David* and *Achish* both were of this opinion, 1 Chron. 13. 1. to 6. 2 Sam. 18. 2, 3, 4. 1 Sam. 29. 2. to 11. and King *Hezekiah* too 2 Chron. 30. 1. to 7. 23. yea God *himselfe*, and *Samuel* too: 1 Sam. 8 4 to the end.

(*i*) *lib.* 1. *c.* 2. *f.* 1. *b.*

(*k*) see *Brook* and *Fitz. Herbert.* and *Ash.* *Title Custome.* & *Prescription.* *Cookes Instit.* on *Littleton*, f. 110. *b.* 113, *b.* 175. *b.*

(*l*) *Cookes Instit* on *Littleton f.* 58. *b.* and the Bookes there cited, *Register. f.* 151. *Briefe de CONSVETVDINIBVS & serveris.*

Fifthly, Because it is directly contrary to the preambles and recitals of sundry Acts of Parliament in most of our Kings reignes comprising the two last reasons. To instance in some few of many: the ancient statutes of * *Marlbridge* begin thus. The *yeare of grace* 1267. *for the better estate of the Realme of England, and for the more speedy ministration of Justice*, AS BELONGETH TO THE OFFICE OF A KING, *the more discreet men of the Realme being called together, as well of the higher as of the lower estate: It was provided, agreed, and ordained, that whereas the Realme of late had beene disquieted with manifold troubles and distractions, for reformation whereof statutes and lawes* BE RIGHT NECESSARY, *whereby the peace and tranquility of the people may be conserved, wherein the King intending to de-*

Now *Malbrough.*

vise

vise convenient remedy, hath made these Acts underwritten. The statutes of 3 Edw. 1. have this Prologue. *These be the Acts of King* Edward, &c. *at his first Parliament generall after his Coronation. Because our Soveraigne Lord the King hath great zeal in desire to redresse the state of the Realm in such things* AS REQVIRED AMENDMENT *for the common profit of the holy Church, and of the Realme &c. the King hath ordained and established these Acts underwritten, which he intendeth* TO BE NECESSARY AND PROFITABLE *unto the whole Realme.* And cap. 17. in the Marches of Wales, and elsewhere, *where the Kings Writs be not currant, the King which is chiefe and soveraigne Lord there,* SHALL DOE RIGHT THERE *unto such as will complaine.* And cap. 48. * *The King hath ordained these things unto the honour of God, and holy Church, and for the commonwealth, and for the remedy of such as be grieved; and for as much as it is great charity* (which is oftimes put for *Iustice*, as here) TO DOE RIGHT VNTO ALL MEN AT ALL TIMES WHEN NEED SHALL BE *by assent of all &c. it was provided.* The statute of *Gloucester* in the 6. year of King Edw. 1. is thus prefaced. *For the great mischiefs and disinherisons that the people of the Realme of England have heretofore suffered, throught default of the law that failed in divers cases within the said Realm; our soveraign Lord the King for the amendment of the land; for the reliefe of his people, and to eschew much mischiefs, damages and dis-inherisons, hath provided established these Acts underwritten, willing and commanding that from henceforth they be firmely kept within this Realme.* The Statutes of *Westminster*, 2. in his 13. year begin thus: *Whereas of late our soveraigne Lord the King, &c. calling his Counsell at Gloucester, and considering that divers of this Realm were disherited, by reason that in many cases, where remedy should have been had, there was none provided by him nor his Predecessors, ordained certaine statutes, right necessary and profitable for his Realm, whereby the people of England and Ireland have obtained more speedy Iustice in their oppressions then they had before, and certaine cases (wherein the law failed) did remaine undetermined, and some remained to be enacted that were for the reformation of the oppressions of the people; our soveraigne Lord the King in his Parliament holden &c. the 13 year of his reign at* Westm. *caused many oppressions of the people, and defaults of the lawes, for the accomplishment of the said statutes of Gloucest. to be rehearsed, and thereupon did provide certaine Acts here following.* The statute of *Quo Warranto*, An. 1278. (the 6. year of this King, made at Gloucest.) hath this exordium. *The King himself providing for the wealth of his Realm, and the more full administration of Iustice,* AS TO THE OFFICE OF A KING BELONGETH; *the more discreet men of the Realm, as well of high as of low degree being called thither, it was provided &c.* The stat. of *York* 12 E. 2 hath this Prologue. *Forasmuch as people of the Realm of England and Ireland have heretofore suffered many times great mischiefs, damage and disherison by reason that in divers cases where the law failed, no remedy was purveyed &c. our soveraign Lord the King desiring* THAT RIGHT BE DONE TO HIS PEOPLE *at his Parl. holden at York &c. hath made these Acts & statutes here following, the which he willeth to be straitly observed in his said Realm.* In 9. Ed. 3. in a Parliament held at *York*, * *the Commons desired the King in the said Parliament by their Petition, that for the profit and commodity of his Prelates, Earls, Barons, and Commons of his Realm, it may please him,* WITHOVT FVRTHER DELAY, *upon the said grievances and outrages to provide remedy: our soveraign L. the K. desiring the profit of his people by the assent of his Prelates &c. upon the said things disclosed to him, & found true, to the*

* *Westm. the first.*

* In the Statutes at large it is c. 48. but 51. in *Mag. Chartas.*

* The Prologue and c. 1.

great hurt of the said Prelates &c. and oppression of his Commons, hath ordained and established &c. In 10. *E.* 3. stat. 1. there is this introduction. *Because our Soveraigne Lord the King* Edw. 3. WHICH SOVERAIGNLY DESIRETH *the maintenance of his peace, and safeguard of his people, hath perceived at the complaint of the Prelates, Earls, Barons, and also at the shewing of the Knights of the shires, and the Commons in their Petition put in his Parliament &c. divers oppressions and grievances done to his people &c.* COVETING *to obvent the malice of such felons, and to see a covenable remedy, hath ordained &c. for the quietnesse & peace of his people that the articles underneath written be kept and maintained in all points* 14 *E.* 3. stat. 1. *To the honour of God &c. the King for peace and quietnesse of his people, as well great as small, doth grant and establish the things underwritten.* The like we have in 15. *E.* 3. *Stat.* 1. and in this Kings Proclamation for *revoking* it, there is this passage; *Wee considering, how* BY THE BOND OF OUR OATH WE BE BOUND TO THE OBSERVANCE AND DEFENCE OF THE LAWES AND CUSTOMES OF THE REALME, *&c. So in* 20. *E.* 3. Because *that by divers complaints made to us, we perceived that the Law of the land which* WE BY OUR OATH BE BOUND TO MAINTAINE *is the lesse well kept, and the execution of the same disturbed many times, &c.* WE GREATLY MOVED OF CONSCIENCE IN THIS MATTER, *and for this cause desiring as much for the pleasure of God and ease and quietnesse of our Subjects* AS TO SAVE OUR CONSCIENCE AND TO KEEP OUR SAID OATH, *by the assent of the great men and other wise men of our Counsell, we have ordained these things following.* 25. *E.* 3. *c.* 8. *That in no wise ye omit the same, as ye love us and the Common wealth of this Realme.* 25. *E.* 3. *stat.* 2. *Because that Statutes made and ordained before this time have not been holden and kept as they ought to be, the King willing to provide quietnesse and common profit of his people, by the assent, &c. hath ordained and established these things underwritten.* The passage in the Statute of *Provisors*, 25. E. 3. Parliam. 6. is notable, *Whereupon the said Commons have prayed our Soveraigne* Lord *the King, that* SITH THE RIGHT OF THE CROWNE OF ENGLAND, AND THE LAW OF THE SAID REALME IS SUCH, *that upon the mischiefes and dammages which hapneth to his Realme,* HE OUGHT AND IS BOUNDEN OF THE ACCORD OF HIS SAID PEOPLE IN PARLIAMENT THEREOF TO MAKE REMEDY, AND THE LAW OF VOIDING THE MISCHIEFS *and dammages which thereof commeth, that it may please him thereupon to ordaine remedy. Our Soveraigne Lord the King seeing the mischiefs and dammages before named, and having regard to the Statute, made in the time of his Grand-father, and to the cause contained in the same; which statute alwayes holdeth his force, and was never defeated, nor annulled in any point; and by so much* AS HE IS BOUNDEN BY HIS OATH TO DOE THE SAME TO BE KEPT AS THE LAW OF THIS REALME *though that by sufferance and negligence it hath been attempted to the contrary; also having regard to the grievous complaints made to him by his people in divers his Parliaments holden heretofore, willing to ordaine remedy for the great dammage and mischiefes which have hapned and daily doe happen to the Church of England by the said cause; By assent of the great men and Commonalty of the said* Realme, *to the honour of God and profit of the said Church of England, and of all his* Realme, *hath ordered and established, &c.* 28. E. 3. *The King for the common profit of him and his people, &c. hath ordained.* 36. E. 3. *To the honour and pleasure of God, and the amendment of the outragious grievances*

and

and oppressions done to the people, and in reliefe of their estate, King Edward, &c. granted for him and his Heires for ever these Articles underwritten. 1. R. 2. *To the honour of God and reverence of holy Church, for to nourish peace, unity, and concord, in all the parts within our Realme of England, which we doe much desire; wee have ordained, &c.* 2. R. 2. *For the honour of God, and of holy Church, and for the common profit of the Realme of England, our Soveraigne Lord the King hath ordained, &c. for the quietnesse of his said people the Statutes and Ordinances following, &c.* cap. 2. (with 2. H. 4 c. 1.) *Our soveraigne Lord the King greatly desiring the tranquility and quietnesse of his people, willeth and straitly commandeth, that the peace within his* Realme *of England be surely observed and kept, so that all his lawfull subiects may from henceforth safely and peaceably goe, come, and dwell after the Law and usage of the* Realme, *and that Iustice and right be indifferently ministred to every of his said subiects, as well to the poore as to the rich in his Courts.* 1. H. 4. *Henry by the Grace of God, &c. to the honour of God and reverence of holy Church, for to nourish peace, unity, and concord of all parties within the* Realm *of England, and for the relieve and recovery of the said* Realme, *which now late hath been mischievously put to great ruine, mischiefe and desolation, of the assent, &c. hath made and established, &c* 6 H. 4. c. 1. *For the grievous complaints made to our soveraigne Lord the King by his Commons of the Parliament of the horrible mischiefs and damnable custome which is introduced of new, &c. Our soveraign Lord the King to the Honour of God, as well to eschew the dammage of this* Realme, *as the perils of their soules which are to be advanced to any Archbishoprickes or Bishopricks, &c. hath ordained.* Divers such recitalls are frequent in most of *our statutes in all Kings raignes,* viz. 37. E. 3. c. 2, 3, 4, 5. 3. R 2. c. 3. 5. R. 2. Stat. 1. 2. 6. R. 2. Stat. 1. 7. R. 2. 8. R. 2. (*For the common profit of the said Realme and especially for the good and iust government and due execution of the common Law, it is ordained, &c.*) 10. R. 2. *Prologue &* c. 1. 11. R. 2. c. 1. 12 R. 13. R. 2. *Prologue &* c. 3. 5, 6. 14. R. 2. 21. R. 2. 1. H. 4. & 5. c. 7. 1. H. 6. 8. H. 6. *Prologue &* c. 25. 10. H. 6. c. 3. 12 H. 6, c. 12. 39. H. 6. *Prologue* 1. R. 3. c. 2. 6. 8. 3. H 7. c, 5. 11. H. 7. c. 18. But I shall conclude with some more punctuall ones. 38 E. 3. Stat. c 1. 2. *To nourish love, peace, and concord between holy Church and the* Realme *and to appease and cease the great hurt and perils and importable losses and grievances that have been done and happened in times past, and shall happen hereafter, if the thing from henceforth be suffered to passe &c. for which causes, and dispensing whereof, the ancient lawes, usages, customes, and franchises of the Realme, have beene, and be greatly appaired, blemished, and confounded, the Crown of the King minished, and his person falsly defrauded, the treasure and riches of his Realme carried away, the inhabitants and subjects of the Realme impoverished, troubled &c the King at his Parliament, &c. having regard to the quietnesse of his people, which he chiefly desireth to sustaine in tranquility and peace, to governe according to the Lawes, Usages, and Franchises of this Land, as* HE IS BOUND BY HIS OATH MADE AT HIS CORONATION; *following the wayes of his Progenitors, which for their time made certaine good Ordinances and provisions against the said grievances &c. by the assent &c. hath approved, accepted, and confirmed &c.* 2 R 2. c. 7. *Because the King hath perceived, as well by many complaints made to him, as by the perfect knowledge of the thing &c. the King desiring soveraignly, the peace and quietnesse of his Realme, and his good Lawes and Customes of the same, and the Rights of his Crowne to be maintained and kept in all points; and the offenders duly to be chastised and punished,* AS HE IS SWORNE AT HIS CORONATION,

by

by the assent of all the Lords &c. hath defended &c. And moreover it is ordained and established &c. 3 R. 2. *Rot. Parl. Num.* 38. & 40. The Commons *desiring a grant of new power to Iustices of Peace, to enquire into extortions*; the Bishops conceiving it might extend to them, *made their protestation against this new grant; yet protested, that if it were restrained only to what was law already, they would condiscend to it, but not if it gave any new or further power.* The King answers, *that notwithstanding their protestation, or any words contained therein, he would not forbeare to passe this new grant*, and that BY HIS OATH AT HIS CORONATION HE WAS OBLIGED TO DO IT. And 6 *H.* 6. *c.* 5. *We, for as much as by reason of our Regality*, WE BE BOVNDEN TO THE SAFEGVARD OF OVR REALM *round about, willing in this behalfe convenient hasty remedy to be adhibite, have assigned, &c.* By these, with infinite such like recitalls in our ancient and late statutes in the Kings owne Proclamations, Commissions, yea and in *writs of law* (wherein wee find these expressions; (*a*) *Nos qui singulis de regno nostro in EXHIBITIONE IVSTITIÆ SVMVS DEBITORES; plenam & celerem justitiam exhibere facias.* (*b*) *Nos volentes quoscunque legios nostros in curiis nostris &c. justitiam sibi &c. nullatenus differri. Ad justitiam inde reddendum cum omni celeritate procedatis* (*c*) *Nos oppressiones, duritias, damna excessus, & gravamina predicta nolentes relinquere impunita; volentesque* SALVATIONI & QVIETI POPVLI NOSTRI *hac parte* PROSPICERE VT TENEMVR; *eidem celeris justitia commentam, & debitum & festinum iustitia complementum fieri facies,* (*d*) *Nos huiusmodi preiudicio precavere volentes, prout ASTRINGIMVR IVRAMENTI VINCVLO. Quia iudicia in curia nostra cito reddita in suis roboribus manuteneri volumus & defendi prout AD HOC IVRAMENTI VINCVLO ASTRINGIMVR & TENEMVR. &c,* It is most apparent, that the Kings of England both by their oath, duty, and common right, even in point of justice and conscience, are bound to assent to all publike Acts as are really necessary for the peace, safety, ease, weale, benefit, prevention of mischiefs and redresse of greivances of all, or any of their subjects, without any tergiversation, or unnecessary delayes, when they are passed and tendered to them by both Houses, and that in such acts as these they have no absolute Negative voice at all, but ought to give their speedy, free, and full consents thereto, unlesse they can give satisfactory reasons to the contrary.

(*a*) Register. part 2. *f.* 7. *c.* 15. *a.*
(*b*) ibid *f.* 10. 38. *b.* 127. *b.* 180. *a.*
(*c*) ibid. *f.* 125. *b*, 126. 129.
(*d*) ibid *f.* 42. *a*, 43. *b*, see *f.* 60. to 65.

Sixthly, All our ancient *K*ings of England, as the premises, with all publike usefull statutes enacted in their reignes evidence) have alwayes usually given their free and full consents in Parliament to such publike acts as these, without deniall or protraction, *conceiving they were bound by oath and duty so to doe*; and if they ever denyed their royall assents to any *Petitions* or *Bills* of the Lords and Commons of this nature, they alwayes gave such good reasons for it as satisfied both Howses: witnes their answers to infinite *Petitions* yet extant among the Parliament records. Therefore the King now is as much obliged thereto as they.

Seventhly, If the King in point of law, should have an absolute negative voice in denying his assent to publike Bills of meere right, and justice; then he should have power by law to deny justice and right, and to doe wrong and iniustice to his people; a prerogative which neither God himselfe, nor any lawfull Monarch ever yet chalenged; but renounced with greatest detestation. I read in **Plutarch* that when a flatterer said to king *Antigonus, that all things were honest and just to Kings, he answered:*

**Apothegm.*

only

nly indeed to Kings of Barbarians but to us honeſt things are to be accounted for honeſt, nly inſt things for inſt: And that *Aeroſtatus* gave the like anſwer to his parent, when hey p.eſſed him to doe an vniuſt thing: *Quoniam vultis me optima agere, optimum utem eſt cum privato, tum multo eis magis Principi id quod eſt juſtum, agam quæ ulsis, quæ v rò dicitis detrectabo.* Yea our law expreſly denies the King any ſuch niuſt prerogative, by theſe unqueſtionable maximes: (*f*) *the King neither can, or ought by law to doe any wrong, ſeeing he is Gods Vicar, and the fountaine of Iuſtice. Et hoc ſolum Rex non poteſt facere, quod non poteſt injuſtè agere*: which our (*g*) law-ooks make no defect of power, but *one of the higheſt branches of the Kings Preroga-ive*: For confirmation whereof, I ſhall only cite one notable Record, 7. *H.* 4. Rot. *Parl.* Numb. 59. *The Commons complained, that by the favour of Ordinaries, divers in-umbents were outed of their benefices by ſuperinſtitutions upon preſentations of the King, contrary to the ſtatute in that caſe provided; and were denied a* Scire facias, *with-ut a ſpeciall licenſe or command of the King firſt obtained, to the great offence of God, ndagainſt reaſon and law* * *BECAUSE SUCH AN ACT CANNOT BE NY PREROGATIVE AT AL IN OUR LORD THE KING, WHICH S DERORATIVE TO THE EXECUTION OF RIGHT AND IV-TICE.* Where'ore they petitioned the King, *that he would be pleaſed to grant and ommand the Chancellor, to deliver a Writ of* ſcire facias *to every of his Lieges who are uted of their benefices or poſſeſſions by the foreſaid title of the King, and that thence-orth the Chancellors ſhall bee bound to deliver by authority of their Offices this Writ of* ſcire facias *at the ſute of the parties; and further, to doe right to the arties, without ſuing to the King, and without other warrant from him.* To hich the King gives this anſwer. *The King wills, that the ſaid ſtatute be firmly eld and kept; and farther willeth and granteth, that if he preſents to any benefice hich ſhall bee full of any Incumbent, that the Preſentee of the King ſhall not bee eceived by the Ordinary to ſuch a benefice, untill the King hath recovered his reſentment by proceſſe of Law in his owne Court: and if any Preſentee of the King bee otherwiſe received, and the Incumbent outed without due Proceſſe, as foreſaid, the ſaid Incumbent may commence his ſute within one yeare after he Induction of the Kings Preſentee, or later. And further, the King wills, hat no ratification granted for the Incumbent, after that the King hath pre-ented and taken his ſute, ſhall bee allowed pending the plea, nor after the judge-ent given for the King; but that ſuch judgement ſhall bee fully executed, as eaſon demands.* Loe here the Commons and Parliament affirme, and the King imſelfe ſubſcribes thereto: *That the King neither hath, nor yet can have any Prerogative at all, which is derogative, or any impediment at all in* the execu-ion of Right and Juſtice; and diſclaime a negative voyce, or power, in him, n granting a *ſcire facias* to particular Incumbents, unduly outed of their Li-ing by a pretended prerogative power, againſt Reaſon and Law: Therefore *fortiori*, the King, by his prerogative, neither hath, nor can have any abſo-ute Negative voice at all to hinder the paſſing of publike Bills preſented to im by both Houſes, for the due execution of right and iuſtice, and the weale, eace, or ſafety of the whole Kingdome. That ſpeech of (*h*) King *Zedekiah to is Princes* (though in a bad caſe) is an undoubted verity here: *Behold hee is in our hands; FOR THE KING IS NOT HE THAT CAN DOE*

* *Plutarch. Apothcg. Laton. p. 468.*

(*f*) *Bract. l. 1 c. 8 l. 2. c. 16. l. 3. c. 9. Flet. l. 3 c. 3, 17. & f. 5. 7. Cook l. 11. f. 72, 74. l. 7. Ferteſc. 9. to 15. Ploud. 246. 247. 487. 21 E. 3. f. 47.*

(*g*) *Plouden, f. 246. 247. & Aſhes* Table, Prerogat. 60. *Iudge Crooks* Argu. againſt ſhip-money, p. 58. to 65.

* *Pur ceo que tiel fait ne poet mye eſtre Prerogative en noſtre Seignour le Roy queſt derogatif al execution de droit et iuſtice.*

(*h*) *Ier. 38. 5.*

ANY THING AGAINST YOU: and likewise of King *David* to his people: 2 Sam. 18. 3. 4. WHAT SEEMETH TO YOU BEST I WILL DO. In one word, as it no impotency in God, but a part of his owne divine prerogative; (*i*) *that he cannot possibly ly, that he cannot deny himself,* (*l*) *that he is immutable and changeth not, that he* (*m*) *cannot do injustice:* And as it was the Apostles highest privilcdge. 2 Cor. 13. 8. *We can do nothing against the truth, but for the truth.* So it no note of impotency but of highest Soveraignty in our Kings, that in all Bills of publike Right and Common Iustice, they have no Negative voice or power at all to withstand or deny their passing; for then they should have a prerogative to deny common Right and Iustice, and so to doe publike injustice, which God himselfe (whose viscgerents they are) is uncapable of, and never derived to them. I will close this reason with that memorable speech of that great heathen Emperour *Julius Cæsar*, which he somtimes used at *Rome* in the Councell-house; * *Touching all other affaires that are to be taken in hand for your sake, I am both your Consul, and your Dictator; but as touching any wrong to be done to any man, I am as a private man without office.*

Eighthly, Our Kings have ever claimed this as an absolute duty from their subjects in Parliament, to grant them such speedy, free, and competent ayds, subsidies, customes for the necessary defence of themselves, and the Kingdome, and support of their royall estates, as the urgency of their publike warres, an l affaires required; and the subjects (though they have somtimes denied subsidies to their Princes upon reasonable causes, and excuses alleadged by them, expressed *in our* (*n*) *Historians*) yet have always *held it their* (*o*) BOUNDEN DUTY *to grant such ayds in Parliament, when* (and sometimes before) *they have been required, and have really done it without refusall, when they saw just cause to grant them*; as all the *old and new Acts* for the grant *of Customes, Subsidies, Dismes, Quindisimes, Tonnage and Poundage, Polemoney*, with other such aides in all our Kings Reignes, abundantly evident. Therefore the King (who is as much obliged by oath and duty to aid his subjects, and provide for their common protection, weale, peace, ease, as they are to provide for His, and the Kingdomes safety) is by like reason as much obliged in duty not to deny them such publike Acts; as they are not to deny him publike aides.

Ninthly, Kingdomes and Commonweales were existent before Kings, for *there must be a Kingdome, and society of men to governe* (as (*p*) *Aristotle*, (*q*) *Cicero*, (*r*) *Polibius*, (*s*) *Augustine*, (*t*) *Forteseue*, and all other Politicians accord) *before there could be* a King *elected by them, for to governe them*: *And those Kingdomes and societies of men had* (for the most part) *some common lawes of their owne free choice by which they were governed, before they had Kings*; *which lawes they* (*u*) *swore their Kings to observe before they would crowne or admit them to the government*; *and likewise gave them a further oath, to passe and confirme all such subsequent lawes as they should make choice of for their publike benefit and protection*; as is evident by the *Coronation oath* of all our owne (yea of *other Christian, and most Pagan Kings*) continuing to this very day; and these words in the Kings oath QUAS VULGUS ELEGERIT (which intimates the choice of Lawes to be wholly and fully in the people free elections) prove beyond Contradiction: Yea those ancient law-givers (*x*) *Solon, Selenchus, Lucurgus, Numa*, with others, who tooke paines to compile Lawes for severall Kingdomes and Republikes, *did only recommend them to the people*, whose voluntary *assent unto them made them binding*; Which lawes they either altered or re-

(*i*) Tit. 1. 2. Heb 6. 18.
(*k*) 2 Tim 2. 13
(*l*) Mal 3 6. Iam 1. 17.
(*m*) Gen 18 25.
* *Dion Hist* 4. Bilson *Iewels* Defence of the *Apol* part 3. c. 5. p. 363.
(*n*) *Mat. Paris* p. 561, 562, 563 718, 719, 725, 726, 933, 434, 935; *Walsing.* hi. p. 98. 185. *Speed* p. 621 *Daniel*, p. 151, 157, 160, 161, 162, 164, 175, 256.
(*o*) 37 *H.* 8. c. 24 1 *E.* 6. c. 13 7 *E.* 6. c. 12. 13. see *Iudge Crooks* & *Huttons* argument against ship-money.
(*p*) *Polit.* l. 1, 2, 3, 4, 5.
(*q*) *de officiis* l. 2
(*r*) *Hist.* l. 6.
(*s*) *De civit. Dei* l. 2. c. 21. (*t*) *De Laud. Leg Ang.* c. 9. to 15.
(*u*) *Xenoph. de Laced. Repub.* p. 690 *Hier Blanc. Regum Aragonens. Comment* p. 588. 589.
(*x*) *Xenoph. de Laced, & Athenienstium Republ. Plato & Cicero de legibus, lib. Aristot. Polit.* l. 2, 3. & 4. *Diodorus Sic. Bibl. hist.* l. 1, 2, 3. *Plutarc. Num. Pompilius Lycurgus, Solon.*

aled as they saw cause. Besides, during *Interregnums* in forraigne elective Kingomes, the Estates in Parliament have *power to make new binding Lawes, repeale and lter old*, as they did in (y) *Aragon* after *Sanchius* his decease) before they elected a *ew King* (whom they swore to observe the Lawes then made, before they would admit him) *without any Kings assent at all*, who yet give their royall assent to *Lawes made n their reignes:* And in our owne and other successive Kingdomes during the Kings nfancy, dotage, absence, the Kingdomes and Parliaments have an absolute power (as I ave already manifested) *to create Regents or Lord-Protectors s to execute royall auhority* and *give royall assents to publike acts in the Kings name and steads*, without their ctuall *personall assents*; which lawes being necessary for the Subject, shall be as firme nd obligatory to King and Kingdome, as those to which they actually assent: Yea, f Kings chance to die without any heire, the Kingdome in such a case may assemble f themselves, and make binding necessary lawes without a King, and alter the very rame of government, by publike consent. Therefore the royall assent to just, necesary, publike Bills, is in truth but a formall Ceremony or complement (*much like a Kings Coronation*) (z) *without which he may be, and is a lawfull King*,) bestowed by the people upon Kings for their greater honour, with *this limitation, that they must not deny it when they of right require it*; not simply to make, but declare and confirme a law already made and passed by both houses (much like a *Tenants* (a) *attornment to the grant of a Reversion*) And therefore Kings may neither in law, nor conscience deny it when it is necessarily demanded to any just publike Bills, unlesse they can shew good reason to the contrary, so farre as to satisfie the people why such lawes should not passe.

(y) Hieron. Blancca, Aragone. s. Rerum Commentr. p. 588, 589. Ioannis Mariana De rebus Hisp. l. 8. c. 1. Iter Pauli Regum Aragonen: Jurcs. Ioannes Pistorius Hispani. illustr: tom 2 p. 849

(z) Cooke, 7. Report, Calvins case f. 10, 11. Cooke 7. Report f. 32. 33.

(a) See Littletons chap. of Attornments, and Cookes Instit. in id.

Tenthly, Our very lawes in many cases deny the King an absolute negative voice or power, even in matters of Prerogative, because they are contrary to his oath, and mischeivous to the Republike. This appeares most clearly in matters of Pardons, the Statute of 2 E. 3. c. 2. 14 E. 3. c. 15. 13 R. 2. c. 1. 16 R. 2. c. 6. enact. *That Charters of pardon shall not be granted for manslaughters, Roberies, Fellonies, and other Trespasse*, but ONLY WHERE THE KING MAY DOE IT BY HIS OATH; *that is to say, where a man slayeth another in his owne defence, or by misadventure*,) *or in case, where he may doe it* KEEPING AND SAVING THE OATH OF HIS CROWNE. So the King (b) *cannot pardon nor release the repairing of a Bridge or Highway, or any such like publike charges, or any publike Nusances or offences against penall Lawes pro bono publico, because it is contrary to the trust and confidence reposed in him for the publike good, because the republike hath an interest herein: and the pardoning of them would be mischeivous for the common good: In like manner the King* (c) *cannot deny, delay, nor deferre Iustice, nor stay the Judges from doing present right and justice to any of his Subjects by his Letters under his great or privy seale, because it is contrary to his oath and duty: Neither* (d) *can he by his absolute Prerogative, impose any the least taxe or imposition on his subjects without their common consent in Parliament; nor* (e) *yet authorize any other to kill, beat, wound, imprison any mans person, or take away his goods, without due processe of law*; Yea the very lawes and custome of the Realme deny the King any absolute negative voice even in the Parliament House in reversing erronious Iudgments, Charters, Patents, declaring what is law in difficult cases, or in proceedings and sentences against Delinquents, or in any one particular whatsoever which concernes the administration of

(b) Cooke 7. f. 36, 7. 37, H. 7. 14. Crooke charter de Pardon. 24, 25, report f. 50. 51.

(c) Mag Chart. 29. 1 E. 3. c. 8. 14 E. 3. c. 14. 1 R. 2. c. 3.

(d) See Iudge Crookes and Hattons argumen s against Shipmony, & the Bookes and Statutes therein cited.

(e) 11 H. 7. f. 12. Er. Charter de Pardon, 76, 42. Ass. 5, 12, Er. Com. 15, 16.

right or common Iustice. Therefore by the selfesame reason, the very law denies him any such negative voice in refusing his royall assent to Bills of common right and Iustice; And as both Houses doe allwayes over-rule the King, not He both Houses in the one; so, by parity and congruity of reason, they ought to oversway him in the other; there being the same reason in both cases, and the one no greater an entrenchment upon his Prerogative then the other.

(b) *M. Nalkwels passing Bills, p.* 78 with others fore-cited. *A Remonstrance of both houses, Nov.* 2. 1642. *p.* 27.

Eleventhly, This is infallibly proved by the usuall forme of our Kings answers to such Bills as they assent not to, (b) *Le Roy soit a visera; The King will be advised, or take further consideration:* which is *no absolute denyall, but a craving of longer time to advise upon them, and thereupon to assent to them if he can see no iust cause to the contrary, or else to give satisfactory reasons why he cannot assent*: Which answer were not proper, nor formall, had the King an absolute negative voyce to reject Bills, without rendring a sufficient reason of his refusall of them.

(c) *Polit. l.* 3. *c.* 7.

Twelfthly, Publike Bills for the Subjects common good, are formed for the most part, by the Lords and Commons themselves, who in truth (as I have elsewhere proved) are the chiefe Law-makers, & who (as (c) *Aristotle* defines) *know better what is good and necessary for their owne benefit, then the King, their publike Minister for their good*; *Itaque maiorum rerum potestas iure populo tribuitur*, is *Aristotles* resolution. Therefore in passing such Bills, there is greater reason, that both Houses should over-rule the King, then the King them. It is usuall in all inferiour Counsels of State, Law, Warre, of the Kings owne choise, for the Counsell to over-rule the King in matters of State, Law, Warre, unlesse the King can give better reasons against, then they doe for their conclusive advise; and Kings in such cases doe usually submit to their Counsels determinations, without contradiction; of which we have sundry Presidents, not onely in profane, but (d) *Sacred Story*. Physicians in points of Physicke, Lawyers of Law, Divines of Divinity, Souldiers of Warre, Pilots of Navigation; and so all Artists in their severall Arts, not only instruct, but over-sway their Princes, without finall contradiction: This being a knowne received Maxime in Law; *Vnicuique in sua arte perito est credendum*: And shall not then the Grand Counsell of the Realme in all publike State-affaires, & Bills of Consequence, much more over-rule the King, then his Privie-Counsell? Especially since in the Statutes of 1 *H.*4.*c.*6. 4.*H.*4,*c.* 1, it is enacted *to the end that the King may not be deceived in his Grants and Gifts, annuall or in fee, or in any offices by him to be made, given, or granted, HE WILL by the assent of the Lords spirituall and temporall, and at the request of the Commons* BE COUNSELLED BY THE WISE MEN OF HIS COUNSELL IN THINGS TOUCHING THE ESTATE OF HIM AND HIS REALME; *and that he will make no such gifts nor grants, saving to such persons as the same deserveth, and as best shall seem to the King* AND HIS COUNSELL. And sith it is THE DESIRE OF ALL THE ESTATES OF THE REALME, *that nothing should be so demanded of the King; he wills that all those that make any such demand contrary to this Statute shall be punished by advise of him and his Counsell, and that he that maketh such demand, shall never have the thing so demanded.* A law now meet to be put in execution.

(d) 1 *Sam.* 4. 38. *to* 4. *c.* 29. *to* 11. 2 *Sam.* 1. 2, 3, 4. *c.* 19. 1. *to* 9. 1 *Chron.* 13. 1 *to* 6. 2 *Chron.* 30. 2, 3. *Esth.* 1. 13. *to* 22. *Ier.* 38. 4. *to* 28. *Dan.* 6. 4. *to* 28.

Thirteenthly, If the King should have an absolute Negative Voyce, in refusing such publike Bills as are necessary and expedient for the common good and safety of his people, it would rest in the meere power and pleasure of a wilfull or misadvised King, seduced by evill Counsellours, to deprive the Kingdome of *the principall use, benefit,*

and

and priviledges of Parliaments, (*) the making of good and wholsome lawes, for the good government of the Realme, the removall or prevention of emergent grievances or dangers, and execution of publike Justice on Delinquents; to the great perill, prejudice, if not ruine of the Realme: And our (f) Annuall or Triennial Parliaments should serve then to no other purpose, but to supply the King with Subsidies, or keep the Wool sacks and Benches from growing mouldy, whilst the Lords and Commons sate upon the rather like so many Cyphers without a figure, then a Court of Parliament; if the Lawes of the Realme were in the Kings hand or breast alone, as Richard the 2. sometimes said they were (a) (g) Article obiected against him at his deposing,) contrary to that approved resolution of (b) Aristotle whatsoever seemes good to the maior part of the Governours of the Common-wealth that is established for a Law; which holds good in the Kingdome of (i) Aragon at this day; where the King in making publike Lawes hath no absolute negative voyce, nor yet in summoning of Parliaments, which are constantly held at their set times every yeare or two at furthest, whether the King will or not.

Fourtenthly, God himselfe (the *King of Kings, and Lord of Lords) held this a principall part of his soveraigne divine Prerogative; to give his people from heaven (when they needed and required it) right Judgments, and Lawes of truth, good statutes and Commandements for their good and wellfare: Neh. 9. 14. Exod. c. 19. and 20 and 21. Deut. 4. 8. to 41. and chap. 5. throughout: Neither *doth, will or can he deny any just or necessary suite, prayer or petition that his poor servants and creatures (though but dust and ashes) joyntly, or severally put up unto him; but most willingly grants without the least deniall, or unnecessary delay, what ever good and needfull things they require at his hands. And can or dare Kings then claime a greater, an higher Prerogatiue over their Kingdomes, and subjects, then God himselfe, the King of Kings, doth over his creatures? or arrogate to themselves an absolute Negative voice, where God himselfe (whose servants and vicegerents only Kings are) neither hath nor will have any, but vtterly disclaimes it? God forbid, that any such arrogant thought should ever enter into the hearts of any christian Kings, who being in truth but servants to, not absolute Lords over their Kingdomes, in whom the soveraigne legislative power and authority resides, must, and ought by the Lawes of God and man, rather condescend to their Parliaments and Kingdomes just requests, in assenting to necessary wholsome just Lawes, then their Parliaments and Kingdomes quietly submit to their unjust dissents unto them to the publike prejudice, as is clear by 2 Sam. 8. 4. to the end.

Finally, our Ancestours have been so farre from beleeving, that our Kings have an absolute negative voyce in such Bills as these, that they have not *onely constrained our Kings by threats*, yea *force of Armes, to summon and continue Parliaments, but likewise compelled them to give their Royall Assents to Magna Charta, Charta de Foresta, Confirmatio Chartarum, Articuli super Chartas*; with sundry other publike Statutes of Right and Justice for the common good and Subjects safety, and to *ratifie them with their hands, Seales, Oathes, Proclamations, the Bishops solemne excommunications, yea and the Popes leaden Bulls, against their will and liking*, as I have plentifully manifested in the former part: Which forced assents have been held good in Law, to binde these Kings and their successours, with this distinction; where the Lawes to which this assent was forced are convenient, necessary, or essentiall for the Kingdoms wellfare, the Subjects just Liberty, and such as the King by duty and oath is bound to assent to; there, if they compell the King to give his assent in case of wilful denyall the

(*) Sir Tho. Smiths Common-wealth lib. 1. c. 3. Brooke Mansham, Cowell, Title Parliament Vom. 1, Iohn Sh. Cambd. in their Discourses of Parliaments.

(f) 4. E. 3. c. 14. 36. E. 3. c. 10. & the Bill for Triennial Parl.

(g) Grafton, f. 401, 402, Trussel. p. 56.

(h) Polit. l. 4. c. 8.

(i) Hyeron. Blancas Aragonensis Rerum. Com. p. 768. to 772.

* Deut. 10, 17. 1 Tim. 6, 15. Rev. 17, 14, and 19, 16.

* Ps. 34, 9, 10. Is. 84, 11. Lam. 1. 5, 17. Mat. 7, 7, 8, 9, 10. Luc. 21, 22. Iohn 16, 23, 24. 1 Iohn 5, 14, 15. Isa. 65, 24. Dan. 9, 20, to 25.

* Bracton l. 3. c. 9.

the assent is binding, and shall not be avoided by Duresse, because the King doth no more then he is obliged by Law, Oath, and Duty to condiscend to: Upon which ground, a *(l) Tenant inforced to attorne to a grant of a reversion by imprisonment, upon a Quid juris clamat, shall never avoid this attornment by Duresse*; nor an *(k) Obligation made by one taken in execution for payment of a just debt; nor the just judgment of a Judge given by menaces shall not be avoyded:*) This is cleere by *Magna Charta*, and other Lawes gotten at first by *(m) Duresse and Menaces from our Kings, and yet firme and binding when even thus assented to, because just and necessary*; as King *Henry* the 3. *Anno* 1222. confessed; *(n) Who when the Barons demanded of him the confirmation of the great Charter and their Liberties according to his Oath upon the conclusion of the peace with Lewis; Will. Brewer, one of the Kings Connsell answering, that the Liberties they demanded must not be observed because they were violently extorted,* and words hereupon growing between the Barons and him, and the Arch-bishop of *Canterbury* kindling at it; the young King prudently closed up the whole strife with this speech; *All of us have sworne to these Liberties, and that which we have sworne* ALL OF US ARE BOUND TO OBSERVE. But where the Acts to which the assent is gained, are unjust or illegall, such to which the King was not bound by Oath or duty to consent, but meerely out of necessity to avoid imminent danger of death, or other mischiefe, and where the whole Parliament was enforced as well as the King; *there the acts may be avoided by Duresse*, as is evident by the Statutes of 11. and 21. of *R.* 2. c. 12. by the Statute of 31 *H.* 6. c. 1. (which *makes voyd all the Petitions granted by this King in a former Parliament the 29. of his Reigne, and all indictments made by Duresse, through the Rebellion, Tyranny, and Menaces of* Iack Cade *and his rebellious rout of Traytors*) and by 39. *H.* 6. c. 1. 15. *E.* 3. *stat.* 2. and 17. *E.* 4. c. 7. Yet these enforced unjust Bills, being publike Acts, done in a legall forme, are not meerly void, but good in Law till they be repealed, and nullified by a subsequent Parliament; (as is evident by the next forecited Statutes;) even as a *(o) Marriage, Bond, or deed made by Duresse or Menace, are good in Law, and not meerly void, but voidable only upon a Plea and Tryall.* And if subsequent Parliaments refuse to repeal these forced Laws, and to declare the Royall assent thereto by coertion, void or illegall, the King cannot avoid them by Duresse (because his Royall assent is a judiciall Act in open Parliament, which his oath and duty obliged him to give, and the Lawes are rather the Parliaments Act which was not forced then his owne,) but they remaine in full vigour as if he had freely assented to them; which is most evident by the Statutes made in 10. and 11. *R.* 2. which though extorted from the King by Duresse, *against the will and liberty of the King, and right of his Crowne*, as is pretended and declared in the Statute of 21. *R.* 2. c. 12. yet they continued in full strength for ten yeares space or more, (during which time there were no lesse then 8. Parliaments held under this King) because these Parliaments refused to reverse them upon this pretext of Duresse.

From all which premises, I humbly conceive, I may infallibly conclude, *That the King in passing the fore-mentioned kinde of Bills*, of Common Right and Iustice for the Kingdomes, and the Subjects weale and safety, *hath no absolute negative voyce, but must and ought of common right and Justice, by vertue of his Royall oath and duty, to give his ready and free assent unto them without any tergiversation.* And so the Parliament in their Declarations to this purpose, hath no wayes invaded nor injured his Majesties just Prerogative royall in this particular.

(k) 13. E. 1. *Perquo servitia* 23. 37. *H.* 6. 14. *Br. Attornment.* 27.

(l) 4. E. 1. 17. 2 E. 4. 7. 8. *Ass.* 25 43. E. 3. 12. *Brook Duresse.* 1, 4, 10, 15, 17, 6, 12, *Fitz. Duresse.* 3. 3, 11, 12, 13, 7 18.

(m) *See Math. Paris, p.* 254. to 257.

(n) *Speed, p.* 597 *Mat. Par. p.* 305. *Daniel, p.* 151.

(o) 31. *H.* 6. c. 3. 3. *H.* 7. c. 2. 1 E. 3. c. 15. *stat.* 2. *& stat.* 1. c. 2. 1 *R.* 2. c. 13. 5 *R.* 2. c. 6. *See Brooke & Affr. Title Duresse.*

N

Nor thoſe members in it eclipſed his Royall grace, who have upon occaſion given affirmed, the *Petition of Right, the Bills for Trieniall Parliaments* (which before by *Law* were to be *annuall* at leaſt;) the *continuance of this Parliament without adjournment*, for the Kingdomes neceſſary preſervation; the acts againſt *Shipmoney, Foreſt-Bounds* &c. (illegall new invented grievances, and oppreſſions not heard of in former Kings Reigns) and the Statutes for the ſuppreſſion of the *Star-Chamber, High Commiſſion, Knighthood, and Biſhops votes*, (lately growen intollerable grivances and miſcheifes to the Realme; Eſpecially ſince his Majeſties Reigne;) to bee no acts of *moſt tranſcendent Grace*, ſuch as never any Prince before vouchſafed to his people, as they are daily cried up in *Preſſe* and *Pulpet*; but Bills of meere Common Right and Iuſtice, which the King by his Royall Office, Oath, Duty, in Law and Conſcience ought to aſſent unto, and could not without apparent injuſtice deny to paſſe, when both Houſes urged him thereunto; the unhappy fractions of all Parliaments, and Grievances of theſe Natures under his Majeſties owne Reigne and Government, occaſioned by his evill Councellers, being the ſole grounds and juſt occaſions of enacting theſe neceſſary Laws for the Subjects future ſecurity; if the ſword now drawen to ſuppreſſe the Parliament, and cut theſe *Gordians* (or rather *Cobwebs*, as *Diogenes* once termed Laws) aſunder, deprive them not of their benefit, before they ſcarce enjoy it.

* See Fullers late Serm. the laſt inauguration day.

I ſhould now here proceed, to manifeſt the Parliaments taking up of defenſive Armes againſt his Majeſties Malignant Army of profeſſed Papiſts, Delinquents, and pillaging murthering Cavaleers, (whoſe grand deſigne is onely to ſet up *Popery* and an abſolute tyrannical Government over our conſciences bodies, eſtates) in defenſe of their own perſons, priviledges, the Subjects Laws, Liberties, Properties, and our Proteſtant eſtabliſhed Religion (devoted by Papiſts to eternall ruine, as we have cauſe to feare) to be juſt, lawfull, and no treaſon nor rebellion at all againſt the King, neither in point of Law nor conſcience; And that the Parliaments aſſeſſing of men towards the maintenance of this neceſſary defenſive warre, by an Ordinance of both Houſes onely without the Kings aſſent, (now wilfully abſent from, and in armes againſt his Parliament and People) with their diſtraining and impriſoning of ſuch as refuſe to pay it; and their confinement and ſecuring of dangerous Malignants, to be juſtifiable by Law and ancient preſidents. But this part being already growne ſomewhat large, and having lingred much longer at the Preſſe then I expected; I have thought it more convenient, to reſerve the remainder for a future Treatiſe by it ſelfe, then to hinder the date of the preſent benefit, which it may receive by this, through Gods bleſſing, ere the other can bee compleated; which I hope will fully un-blindfold the hood-winkt world, and either ſatisfie the conſciences, or ſtop the mouthes of all who are not wilfully malicious againſt the Truth and Parliaments proceedings; and the *Soveraigne Power* of Parliaments and Kingdoms, over their Kings themſelves.

FINIS partis ſecundæ.

Errata

Page, 5, l, 6. for unjuſt, r, *out juſt*. p. 15, l. 29. *mans*. p. 50. l. 2. ever. *over*. l. 20. title, *like*. p. 52. l. 46. *proviſions*. p. 48. l. 26. in the margin, James, *Francis*. ome other preſſe errors are in ſome few copies. but corected in the moſt.

THE THIRD PART OF THE SOVERAIGNE POWER OF *PARLIAMENTS* and *KINGDOMES.*

Wherein the Parliaments present *Necessary Defensive Warre against the Kings offensive Malignant*, Popish forces; and Subjects taking up *Defensive Armes against their Soveraignes*, and their Armies in *some Cases*, is copiously manifested, *to be Just, Lawfull, both in point of Law and Conscience*; and *neither Treason nor Rebellion in either*; by inpregnable *Reasons* and *Authorities* of all kindes.

Together

With a *Satisfactory Answer* to all *Objections*, from *Law*, *Scripture*, *Fathers*, *Reason*, hitherto alledged by *Dr. Ferne*, or any other *late opposite Pamphleters*, whose grosse *Mistakes* in true *Stating of the present Controversie*, in sundry points of *Divinity*, *Antiquity*, *History*, with their absurd irrationall *Logicke* and *Law*, are here more fully *discovered*, *refuted*, than hitherto they have been by any: Besides other particulars of great concernment.

By WILLIAM PRYNNE, *Utter-Barrester, of Lincolnes Inne.*

2 Sam. 10. 12.

Be of good courage, and let us play the men for our People, and for the City of our God, and the Lord doe what seemeth him good.

Esther 9. 1, 2, 5, 10.

In the day that the enemies of the Jewes hoped to have power over them, the Jewes gathered themselves together into their Cities, throughout all the Provinces of King Ahasuerus, to lay hand on those that sought their hurt, and no man could withstand them; for the feare of them fell upon all people. Thus the Jewes smote all their enemies with the stroke of the sword, and slaughter and destruction; and did what they would with those that hated them: but on the spoile laid they not their hand.

It is this eighth day of *May*, 1643. Ordered by the Committee of the House of Commons in Parliament for Printing, that this Booke, Intituled, *The third Part of the Soveraign Power of Parliaments and Kingdomes*, be Printed by *Michael Sparke*, senior.

John White.

Printed at London for *Michael Sparke, Senior.* 1643.

TO HIS

EVER-HONOVRED, NOBLE, KINDE FRIENDS,

THE

Right *Honourable* Lord *Ferdinando Fairfax*, the Right Worſhipfull, Sir *William Waller*, and Sir *William Bruerton*, Knights, *Commanders* in *Chiefe*, of the *Parliaments Forces*, in ſeverall *Counties*.

Deſervedly *Renowned Worthies*,

OVR Incomparable Valour, Zeale, Activity, Induſtry *for the preſervation of Your* Deareſt Country, Religion, Lawes, Liberties, *and* the very being of Parliaments, *all now endangered by an* unnaturall generation of Popiſh *and* Malignant Vipers, *lately riſen up in* Armes *againſt them in diverſe* parts *of this* Realme; *and thoſe many* miraculous Victories *with which God hath beene lately pleaſed to* Crowne *your* cordiall endeavours, *to promote his glory and the* Publicke ſafety, *as they have juſtly demerited ſome* gratefull *generall* Acknowledgements *from the whole* Repreſentative Body of the State; *ſo they may in ſome ſort challenge a private* gratulatory Retribution *from Me, who have formerly had the happineſſe to participate in your* Chriſtian

stian Affections, *and now reape much Consolation by your* Heroick Actions.

Having therefore seasonably finished this Third part, Of the Soveraigne Power of Parliaments and Kingdoms; *copiously Vindicating*, the Lawfulnesse, Iustnesse of the Parliaments present Necessary Defensive Warre (*in which you have had the Honour to be imployed, not onely as* Chiefe, *but which is more, as most* successefull Commanders, *in your severall Countries,*) in point both of Law and Conscience; *and fully wiping off those* blacke Aspersions, *of* TREASON *and* REBELLION, *which the* opposite party (*really guilty of these crimes* against both King and Kingdome, *as I have** elsewhere manifested, *and here lightly touched*) *have out of* Malice, Ignorance, *or both conjoyned, most injuriously cast upon your* Loyall, honourable proceedings, *which rejoyce the soules of all true* Philopaters, *who cordially affect their* Country *or* Religion; I *could not, without much* ingratitude, *yea* injustice, *have published it to the world, but under the Patronage of your ever-honored resplendent names, who have so valorously, so successefully pleaded this Cause already in the* Field, *that it needs the lesse assistance from the* Presse.

* Part 1. Edit. 2 p. 108, to 112.

My many inevitable interruptions *and straites of time in its* contexture, *which may happily detract something from its* perfection; *shall* I *hope, derogate nothing from your Honourable, Friendly* acceptation; *whom* I *have thus* conjoyned *in the* Dedication; *because the* Parliament *hath united you in their present* Warlike employments, *and God himselfe jointly honoured you with* successe, *even to* admiration *among the Good,* indignation *amidst Malignants,* envy *with the Malicious, and,* I *trust, to an active sedulous* emulation *in all your* Fellow-Commanders, *imployed in other* Quarters *in the selfesame Cause.*

Your present busie publike, *and mine owne* private Imployments, *prohibite me to* expatiate; *Wherefore earnestly beseeching the* Glori-

ous

us Lord of Hosts *to be ever mightily present with your severall No-*
le Persons, Forces, *and to make you alwayes* eminently, active, Va-
orous, Victorious, *as hitherto he hath done, till* Peace *and* Truth,
Tranquillity *and* Piety, *by your severall triumphant Proceedings, shall*
once more lovingly embrace and kisse each other *in our divided*
nreformed, sinfull Kingdomes; And till the effect of these just warres
ou manage, shall be quietnesse and assurance to us and our Po-
terities after us for ever; *I humbly recommend your Persons, Pro-*
eedings to his protection who can secure you in and from all dangers of
warre, and rest,

Your Honours, Worships

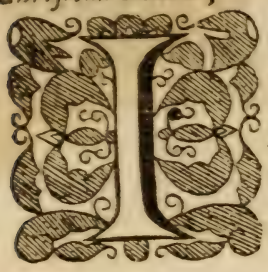
most affectionate Friend

and Servant,

WILLIAM PRYNNE.

To the Reader.

Christian Reader,



Who have beene alwayes hitherto a *Cordiall Desirer, endeavourer of Peace*, am here necessitated to present *Thee* with a *Discourse* of *Warre*; to justifie *The Lawfulnesse of the Parliaments* present taking up of *necessary Defensive Armes*. Which neither their *Endeavours*, nor my, *with many others Prayers* could (with any safety to our *Priviledges, Persons, Religion, Liberty, Realmes*, now forcibly invaded by his *Majesties Popish and Malignant Cavallieres*) hitherto prevent, or conjure downe.

To plead the Justnesse of a *Warre*, of an unnaturall *Civill warre*, (the worst of any) of a *Warre* betweene the *Head* and *Members*, may seeme not onely a *Paradox*, but a *Prodigie*, in a Land heretofore blessed with an aged, uninterrupted Peace: And (*a*) *Lucans*

(*a*) *Civilis Belli, l.1. p.1.*

Bella per Æmathios plusquam civilia Campos, &c.

(now most unhappily revived among us) being but *Historicall*, and *Poeticall*; may passe the world with lesse *admiration* and *censure*, than this *harsh Peece*, which is both *Legally* & *Theologically* (like the Subject matter) *Polemicall. But as the* (*b*) *ayme, the end of all just War, is and ought to be onely future setled Peace*; so is the whole drift of this *Military Dissertation*: not to *foment* or *protract*, but *end* our *bloody Warres*; which nothing hath more excited, animated, lengthened in the Adverse party, than a strong conceite, (if not serious beliefe,) that *The Parliaments Forces, neither would, nor lawfully might in point of Law or Conscience forcibly resist or repulse their invasive Armes, without danger of High Treason and Rebellion*, (which *Bugbeare* I have here refuted, removed) and the In-activity, the much admired slownesse of many of our Forces, in resisting, in preventing their vigorous Proceedings, which a little timely vigilance and diligence had easily controlled.

(*b*) *Apud veros Dei cultores etiam ipsa bella pacata sunt; quæ non cupiditate aut crudelitate, sed pacis studio geruntur Aug. de diverss. Eccl. obsert. 7. Gratian Caus. 23. qu. 2. cap. Apud. Albericus Gentilis de Iure belli. l. 1. c. 5.*

It is a more than (*c*) *Barbarous Inhumanity* for any person, not to put to his uttermost strength, speedily to close up the *mortall wounds* of his *bleeding*

(*c*) *Patria deesse quoad vita supperat nefas est Livius, Rō. Hist. l. 5.*

ng, dying Native Country; but to *protract its cure*, to enlarge, encrease *s deadly Ulcers, Stabs, Sores*, and make a *lasting trade of Warre*, out of a *sor-d*, (*d*) *sinfull desire of Gaine*, of *Plunder*, to raise a private *fortune* by the *epublicks ruines*, (a sinne, of which some perchance are guilty) is an *nparalleld*, most unnaturall *prodigious Impiety*.

(*d*) *Militare non est delictum sed propter praedam militare peccatum est. August. de verbis Dom. Tract. 19. & Gratian. caus. 23. qu 1.*

It was thought a *great dishonour* heretofore, for men of *Honour* and *E-ates, not to serve and defend their Country gratis*, as our own (*e*) *Lawbooks* & *istories* plentifully manifest: and shall such *Persons* now turne sordid *ercenaries*; stirre neither hand nor foot without their *Pay*; and be more *ligent* to get their *wages*, than discharge their *Service*? God forbid.

(*e*) See *Littleton* in his Chapter of Grand-serjanty, Knight-service, Escuage, & *Cook ibi.*

It is (*f*) Recorded *of the Children of* Gad *and* Reuben, *after they had covered their inheritance on this side Jordan, that they went all up armed be-re the Lord over Jordan, at their owne free cost, untill they had driven out all e enemies in it before them, subdued the Land, and setled their brethren of the her Tribes peaceably in it.* And shall not *Englishmen* of Estates doe the ke for their Brethren now, in these times of need, when money (the newes of Warre) is almost quite shrunke up, by reason of former *Dis-rsements* and want of *Trade*? We read, (*g*) *That the very Heathen Kings Canaan when they came and fought in Taanach by the waters of Megiddo, ainst the Israelites, THEY TOOKE NO GAINE OF MO-EY*, for their paines: Such was their Noble generosity, which *Debo-h* registers in her Song for their eternall Glory. And we heare of di-ers *Lords* and *Gentlemen* in the *Kings Army*, which serve against their *ountry gratis*; yea furnish out sundry Horse and Foote, of their proper ost; of few or none such there who receive any *Pay*. And shall these be ore free, generous, active in serving, fighting against *God, Religion, Lawes, iberties, Parliament* and their *Country*; than those of like Ranke and qua-y on the *Parliaments* party are in warring for them? O (*h*) *let not* such ignoble, unchristian Report be ever once *justly told in Gath, or publish-d in the streets of Askelon, lest the daughters of the Philistines rejoyce, lest the nnes and daughters of the uncircumcised triumph.*

(*f*) Numb. 32 Josh. 1. 12, to 18.

(*g*) Judg 5. 19

(*h*) 2 Sam. 1. 20

I know there are some *Heroicke Worthies* in the *Parliaments Armies*, of whom I may truely sing with *Deborah*, (*i*) *My heart is toward the Governours Israel, that offered themselves willingly among the people*; and who like *Ze-ulon and Nepthali, have freely jeoparded their lives unto the death, in the high laces of the field. Blessed* be their *Endeavours*, and their *Names* for ever *Honourable*: I shall now onely wish that others would imitate their *lau-able examples*; that so our *long-lingring warres* may be speedily and appily determined in a *blessed, pure, plous, secure, honourable, lasting Peace.*

(*i*) Judg. 5. 9. 18.

They

They are *Tormentors*, not *Chirurgions*, *Executioners*, not true *Souldiers*, who desire, endeavour not speedily to close up and heale their deareſt *Countries* bleeding, festring *wounds*; for which I have prepared this *Treatise*, as a *Soveraigne Balme*, to incarne and cicatrize them, not ulcerate, or inflame them.

(k) Jer. 8. 20. 22.

It was the *Prophets* Patheticke expostulation, (*k*) *The harvest is past, the Summer is ended, and we are not healed: Is there no balme in Gilead? Is there no Physitian there? why then is not the health of the Daughter of my people recovered?* It may be *Englands* and *Irelands* expostulation now: The Lord put it into the hearts of our great *Physitians* (the *King*, *Parliament*, and *Grandees* of both Armies) that they may now at last with bleeding, melting hearts and spirits, speedily poure forth such effectuall healing *Balmes* into these two *dying Kingdomes deadly wounds*, as may effectually *cure* and *restore them* to more perfect health and vigor than they ever formerly enjoyed, that so they may lose nothing but their *putrid blood*, their *proud dead flesh*, their *filthy sanies* and *corrupt humours*, by their *unnaturall stabs* already received: Towards the advancement of which much desired *cure*, if these my undigested rude *Collections* (interrupted with sundry inevitable interloping *Distractions*, which may justly excuse their many defects) may adde any contribution, or satisfie any *seduced*, or *scrupulous Consciences* touching this present *Warre*; I shall deeme my labours highly recompensed; And so recommending them to *Gods blessing*, and thy *charitable acceptation*, I shall detaine thee with no further *Prologue*.

Farewell.

THE SOVERAIGNE POVVER OF PARLIAMENTS & KINGDOMES:

PROVING Ist.

That the Parliaments present necessary Defensive Warre, is Iust and Lawfull both in point of Law and Conscience, and no Treason nor Rebellion.

HAving in the two former Parts of this *Discourse* dissipated foure chiefe Complaints against the Parliaments proceedings; I come now in order (in point of time and sequell) to the 5th Grand Objection of the King, Royalists, and Papists against the Parliament. To wit: * *That they have traiterously taken up Armes, and levied warre against the King himselfe in his Kingdome; and would have taken away his life at* Keinton *battell, which is no lesse than Rebellion and High Treason, by the Statute of* 25. *E.* 3. *c.* 2. *with other obsolete Acts; and by the Commen Law.* Which Objection, though last in time, is yet of greatest weight and difficulty, now most cryed up and insisted on, of all the rest, in many of his Majesties late *Proclamations, Declarations*, and in *Anti-Parliamentary Pamphlets.*

Object. 5.

* See many Printed Declarations, Proclamations to this effect; with other Pamphlets.

To give a punctuall Answere to this capitall Complaint, not out of any desire to foment, but cease this most unnaturall bloody warre, which threatens utter desolation to us if proceeded in, or not determined with a just, honourable, secure, lasting peace; now lately rejected by his Majesties party. I say,

Answ.

First, that it is apparent to all the world, who are not willfully or maliciously blinded; That this Majesty first began this warre, not onely by his endeavors to bring up the Northerne Army to force the Parliament, confessed by the flight, letters, examinations of those who were chiefe Actors in it; but by raising sundry forces under colour of guard before the Parliament levied any.

2. Secondly, that the [a] Parliament in raising their forces had no intention at all to offer the least violence to his Majesties person, Crowne, dignity, nor to draw any English blood; but onely to defend themselves and the Kingdome against his Majesties Malignant invasive plundring Forces, to rescue his Majestie out of the hands, the power of those ill Councellers and Malignants who withdrew him from his Parliament, to bring him backe with honour, peace, safety, to his great Councell; (their Generall

[a] See the Houses severall Declarations to this effect.

and Army Marching with a Petition to this purpoſe,) and to bring thoſe Delinquents to condigne puniſhment who moſt contemptuouſly deſerted the Houſes, contrary to Order, Law, the Priviledges of Parliament, their owne Proteſtation taken in both Houſes, ſheltring themſelves, under the power of his Majeſties preſence and Forces, from the juſtice of the Houſes, and apprehenſion of their Officers, contrary to all preſidents in former ages, in High affront of the priviledges, honour, power of the Parliament, and * *Fundamentall knowne Lawe* of the Realme: Since which time, his Majeſtie having (contrary to his former *Proclamations* and frequent *Printed* ſolemne *Declarations*) entertained, not onely divers *Iriſh Popiſh Rebels*, but likewiſe *Engliſh* and Outlandiſh Papiſts in his Army, and given Commiſſions to ſundry * *Arch Popiſh Recuſants*, to Acte themſelves, and raiſe Forces againſt the Parliament, and Kingdom, now in the field in all the Northerne parts, Wales, and other places, (and that under the Popes owne conſecrated Banner as many report) in defiance of our Proteſtant Religion, (deſigned by the *Popiſh Party* both at home and abroad, to no leſſe then utter extirpation in *England*, as well as in *Ireland*, if not in *Scotland* too, (as ſome of them openly profeſſe;) the Parliament are hereupon neceſſitated to augment and recrute their forces; as for the precedent ends at firſt, ſo now more eſpecially, for the neceſſary defence of the Proteſtant Religion eſtabliſhed among us by law; againſt which they (and all others who are not wilfully blinded) viſibly diſcerne a moſt apparant deſperate conſpiracie; which though not cleerely perceived, but onely *juſtly ſuſpected* at firſt, doth now appeare (all circumſtances and agents conſidered) to be the very *Embrio* and primitive cauſe of this deplorable warre; againſt which the Parliament and ſubjects are now more neceſſitated and engaged to defend themſelves then ever, ſeeing they have by all poſſible meanes endeavored to prevent this warre at firſt, and ſince to accommodate it, though in vaine, upon juſt, reaſonable, and honorable ſafe termes for King and Kingdome. The ſole Queſtion then in this caſe thus truely ſtated will be.

* 13 E 1 c.38 31 H.6, c.1. See *Aſhes* Table, *Contemp.* 6,7 the Law bookes there quoted, 6 H. 8. c. 16. 3 E. 3. 19. Coron. 161. Dyer, 60. Stamford: Pleas, l.1. c.29. f.38. l.3, c.6, 63, f.153.

* The Declaration of the Lords & Commons in Anſwer to his Majeſties, concerning Keinton Battle.

Whether his Majeſtie, having contrary to his Oath, Duty, the fundamentall Laws of God and the Realme, raiſed an Armie of Malignants, Papiſts, Forraigners; againſt his Parliament, Kingdome, People, to make an Offenſive warre upon them, to murther, rob, ſpoyle, deprive them of their peace, liberties, properties, eſtates; to impoſe unlawfull taxes by force upon them; protect Delinquents and evill Councellors againſt the Parliaments Juſtice, and violently to undermine our eſtabliſhed Proteſtant Religion; the Common-wealth of *England* legally aſſembled in Parliament; and all Subjects in ſuch caſes, by Command and direction from both Houſes of Parliament, may not lawfully and juſtly without any Treaſon or Rebellion, in point of Law and Conſcience, take up defenſive Armes to preſerve the Priviledges of Parliament, their Lawes, lives, liberties, eſtates, properties, Religion, to bring Delinquents and ill Councellours to condigne puniſhment, and reſcue his ſeduced Majeſtie out of their hands and power, though he be perſonally preſent with them, to aſſiſt and countenance them in this unnaturall deſtructive warre?

And under correction (notwithſtanding any thing I ever yet heard or read to the contrary) I conceive affirmatively, that they may juſtly do it, both in point of Law and Conſcience. I ſhall begin with Law, becauſe in this unhappie controverſie, it muſt direct the conſcience.

* *Part* 1. & 2. throughout.

Firſt, I have [b] already proved in Judgement of Law, the Parliament and Kingdome aſſembled in it, to be the Soveraigne power, and of greater authority then the King, who is but their publike Miniſter in point of civill Juſtice, and Generall in matters of warre, as the Roman Kings and Emperours were; and other forraign

King

Kings of old and at this day are. The Parliament then being the highest power, and having principall right and authority to denounce, conclude and proclaime warre, (as I have manifested in the debate of the *Militia*,) may not onely lawfully resist, but oppugne, suppresse all Forces raised against it, and the Kingdomes peace or welfare.

Secondly, the principall end of the Kingdomes, originall erecting Parliaments, and investing them with supreame power at first, was, to defend not onely with good Lawes and Councell, but when absolute necessitie requires (as now it doth,) with open force of Armes; the Subjects Liberties, Persons, Estates, Religion, Lawes, Lives, Rights, from the encroachments and violence of their Kings, and to keepe Kings within due bounds of Law and Iustice; the end of instituting the [c] Senate and *Ephori* among the *Lacademonians*, the Senate and Dictators among the *Romans*, the [d] *Forum Suprarbiense*, and *Justitia Aragoniæ* among the *Aragonians*; of Parliaments, Dietts, and Assemblies of the estates in other forraigne Kingdomes, and in *Scotland*, as I shall prove at large in its [e] proper place. This is cleare by the proceedings of all our Parliaments in former ages; Especially in King *Iohns*, *Henry* the third, *Edward* the 1. 2. 3. and *Richard* the seconds Raignes; by the latter Parliaments in King *Iames* his raigne, yea of 3. *Caroli*, the last dissolved Parliament, and this now sitting, whose principall care and imployment hath beene to vindicate the Subjects Liberties, properties, lawes, and Religion, from all illegall encroachments on them by the Crown and its ill Instruments: by the [f] forecited resolutions of *Bracton*, *Fleta*, *the Mirror of Iustices*, *Vowell*, *Holinshed*, *the Councell of Basill*, *and others*, that the Parliament ought to restraine and bridle the king when he casts off the bridle of the Law, and invades the Subjects Liberties, especially with open force of *Armes* in an Hostile manner: and by the constant practise of our *Ancestors* and the Barons Warres, in maintenance of *Magna Charta*, with other good Lawes and Priviledges, confirmed by *Parliament*. If then the Parliament be intrusted by the Kingdome with this Superlative power, thus to protect the Subjects Liberties, properties, Lawes, persons, Religion, &c. against the kings invasions on them by policie or violence: they should both betray their trust, yea the whole kingdome too, if they should not with open Force of *Armes*, (when Policy, Councell, and Petitions will not doe it) defend their owne and the Subjects Liberties, persons, priviledges, &c. against his Majesties offensive *Armies* which invade them, intending to make the whole kingdome a present booty to their insaciable rapine, and a future vassall to his Majesties absolute arbitrary power, by way of conquest.

[c] See *Polybius Hist. l. 6. Arist Polit. l. 3. c. 10. 11 l. 5. c. 10. l. 2. c. 5. Bodin l. 1, c. 10. l. 2, c. 5.*

[d] *Hieron. Blan. Aragonens. Rerum Comment. p. 588. 589. 716. to 725. 747. to 760. Joan. Mariana de Rege & Regis Instit. l. 1. c. 5. to 10.*

[e] In the Appendix.

[f] Part. 3.

I reade in [g] *Bodin* that the Roman Senate being no way able to restraine *Cæsar*, tooke their refuge to that ancient Decree of the Senate, which was commonly made but in dangerous times of the Common-weale. *Videant Consules & cæteri Magistratus ne quid detrimenti capiat Respublica*: Let the Consulls and other Majestrates foresee that the Common-weale take no harme. With which decree of the Senate, the Consulls being armed, sodainely raised their power, commanding *Pompey* to take up *Armes* and raise an Army against *Cæsar* to oppose his violent proceedings by force who after his conquest of *Pompey* refusing to rise up to the Consulls, Pretors, and whole Senate, out of his pride, through his ill Councellors advise, and talking with them, as if they had beene but private men, he so farre offended both the Senate and people, that to free the Republicke from his Tyranny, and preserve their hereditary Liberties, they conspired his death, and soone after murthered him in the Senate-house, where they gave him no lesse than 23. wounds. And [h] *Hieronimus Blanca* assures us, that the *Suprarbiense Forum*, *Iustitia Aragoniæ*, or States of *Aragon*, (erected to withstand the tyrannie and encroachments of their kings) may by the Laws of their Realme assemble together, and

[g] *Commonwealth l. 3. c. 1 See Plut. Cæs. & Pompeius.*

[h] *Aragonense Forum Rerum Comment. p. 724.*

RESIST THEIR KING WITH FORCE OF ARMES, *as oft as there ſhall bee neede to repulſe his, or his Officers violence againſt the Lawes*; For when they erected this Court, they ſaid, It would be little worth to have good Lawes enacted, and a middle Court of Iuſtice betweene the King and people appointed, if it might not be lawfull to take up *Armes* for their Defence when it was needfull; (being agreeable to the very Law of nature and reaſon;) Becauſe then it will not be ſufficient to fight with Counſell: For if this were not ſo, and the State and Subjects in ſuch caſes might not lawfully take up armes, all things had long ere this been in the power of Kings. Therefore, no doubt, our Parliament and State, as well as others, may by the very Law of Nature, and fundamentall inſtitution of Parliaments, now juſtly take up Defenſive armes to preſerve their Liberties, Lawes, Lives, Eſtates, Religion, from vaſſallage and ruine.

Thirdly, Our owne Parliaments, Prelates, Nobles, and Commons in all ages (eſpecially in times of Popery) as well in Parliament, as out, have by open force of armes reſiſted, ſuppreſſed the oppreſſions, rapines, vnjuſt violence, and armies of their Princes raiſed againſt them; Yea, incountred their Kings in open Battells, taken their perſons Priſoners, and ſometimes expelled, nay depoſed them from their Royall authority, when they became incorrigible open profeſſed enemies to their kingdomes, their Subjects, ſeeking the ruine, ſlavery, and deſolation of thoſe, whom by Office, Duty, Oath, and common Iuſtice, they were bound inviolably to protect in Liberty and peace, as the * premiſed Hiſtories of *Archigallo, Emerian, Vortigern, Segebert, Oſred, Ethelred, Bernard, Edwin, Ceolwulfe*, King *John*, *Henry* the 3d. *Edward* 1. and 2. *Richard* the 2, *Henry* the 6th. (our *Britiſh, Saxon, Engliſh Kings*,) and other examples common in our owne Annalls, plentifully manifeſt. Neither are their examples ſingular, but all Kingdomes generally throughout the world in all ages have done the like, when their Kings degenerated into Tyrants, of which there *are* [i] *infinite precedens in Hiſtory*: which actions all ages, all Kingdomes have alwaies reputed lawfull both in point of Policy, Law, Religion, as warranted by the very Lawes of Nature, Reaſon, State, Nations, God; which inſtruct, not onely particular perſons, but whole Cities and Kingdomes for their owne neceſſary defence preſervation, the ſupportation of humane Societie and Libertie, to protect themſelves againſt all unlawfull violence and Tyranny, even of their Kings themſelves, or their Miniſters, to whom neither the Lawes of God, Nature, Man, nor any civill Nation ever yet gave the leaſt authority to Murther, Spoile, Oppreſſe, enſlave their Subjects or deprive them of their lawfull Liberties or Eſtates; which reſiſtance were it unlawfull or unjuſt (as many ignorant Royalliſts and Paraſites now teach) ſome few oppreſſing tyrannizing wilfull Princes, might without the leaſt reſiſtance, ruine, murther, enſlave the whole world of men; overthrow all ſetled formes of civill government, extirpate Chriſtian Religion, and deſtroy all humane Society at their pleaſures all which had beene effected, yea, all States and Kingdomes totally ſubverted long agoe, by ambitious Tyrannizing lawleſſe Princes, had not this Lawfull, Naturall, Hereditary power of reſiſting and oppoſing their illegall violence (inherent in their Parliaments, States, Kingdomes) reſtrained and ſuppreſſed their exorbitances of this kinde. Now that this neceſſary Defenſive oppoſition and reſiſtance againſt open Regall Hoſtile violence, which hath beene ever held lawfull, and frequently practiſed in all Kingdomes, all ages heretofore, as juſt and neceſſary; ſhould become ſodenly unlawfull to our Parliament, and Kingdome onely, at this inſtant, ſeemes very unreaſonable unto me.

* *Part* 1. p. 6, 7, 8, &c.

[i] See *Ariſt. Polit.* l. 5 c. 10 Dr. *Beards* Theatre of Gods Iudgements, l. 2. c. 9. to 43. *Ad generum Cereris pauci ſine ſanguine fuſo, Deſcendunt Reges, & ſicca morte Tyranni Iuvenal.* See the Appendix.

Fourthly

Fourthly, It is the expresse resolution of [k] *Aristotle*, [l] *Xenophon*, [m] *Polibius*, Pope *Eleutherius*, (in his Epistle to our first Christian King, *Lucius*) King [n] *Edward* the Confessor in his established Lawes, c. 17. the [o] Councell of *Paris*, Anno 829. and *Isidor* cited by it; [q] *John Bodin*, [r] *John Mariana*, and generally of all forraigne Divines and Polititians Pagan or Christian; yea of [s] *Bracton*, [t] *Fleta*, [u] *Fortescue*, and [x] King *Iames* himselfe; that a King governing in a setled Kingdome, *ceaseth to be a King, and degenerates into a Tyrant, so soone as hee leaves to rule by his Lawes; much more, when he begins to invade his Subjects Persons, Rights Liberties, to set up an Abitrary power; impose unlawfull Taxes, raise Forces, and make Warre upon his Subjects, whom he should Protect, and rule in peace; to pillage, plunder, waste, and spoile his Kingdome; imprison, murther, and destroy his people in an hostile manner, to captivate them to his pleasure*; the very highest degree of Tyranny, condemned and detested by God, and all good men. The whole State and Kingdome therefore in such cases as these, for their owne just necessary preservation, may lawfully with force of Armes, when no other course can secure them, not onely passively, but actively resist their Prince, in such his violent, exorbitant, tyrannicall proceedings; without resisting any kingly, lawfull royall Authority *Vested in the Kings person for the kingdomes preservation onely, not destruction*; because in, and as to these illegall oppressions, tyrannicall actions, not warranted, but prohibited by the Lawes of God, and the Realme, (to whom he is [z] *accountable, and by whom he is justly censurable for them*) he is no lawfull King, nor Majestrate, but an unjust oppressing Tyrant, and a meere private man, who (as to these proceedings) hath quite denuded himselfe of his just Regall authority. So that all those wholsome Lawes made by the whole State in Parliament, for the necessary preservation and defence of their Kings Royall Person, and lawfull Soveraigne power; the suppression of all Insurrections, Treasons, Conspiracies and open Warres against them, whiles they governe their people *justly according to Law*, (as all good Princes are [a] *obliged* to doe by oath and duty;) or the open violent resisting of their Lawfull authority and Commands; to which *all Subjects both in point of Law and* [b] *Conscience, ought chearfully and readily* to Submit; will yeeld no publike Countenance, Encouragement, or Protection at all to Kings, in their irregall, tyrannicall oppressions, or violent courses; especially when they turne professed publike enemies to their people, proclaime open Warre against them, invade their Lawes, Liberties, Goods, Houses, Persons, and exercise all acts of Hostilitie against them, as farre forth as the most barbarous Forraigne Enemies would doe: It being against all common sence and reason to conceive, that our Parliaments, Lawes which strictly inhibit and punish *the very smallest violations of the publike peace*, with all kinds of *Oppressions, Robberies, Trespasses, Batteries, Assaults, Bloodsheds, Fraies, Murthers, Routs, Riots, Insurrections, Burglaries, Rapes, Plunderings, Force-able Entries, Invasions of the Subjects Liberties* or *Properties*, in all other persons, and greatest publike Officers whatsoever (whose [c] *Delinquences are so much the more hainous, detestable and censurable*, as their persons, honours, and places are more eminent) should so farre countenance, justifie, or patronize them onely in the King, the Soveraigne fountaine of Iustice (*ad tuitelam Legis corporum & bonorum erectus*, as Fortescue, and Sir [c] *Edward Cooke* resolve; *Cujus Potestas Iuris est, & non Injuria*; & *qui sit author Iuris, non debet inde injuriarum nasci occasio, unde Iura nascuntur*, as [d] *Bracton*, and [g] *Fleta* determine;) as not to permit the Subjects, under paine of *Re-*

[k] *Polit.* l. 5. c. 13. 11.
[l] *Memorabil.* l. 4. p. 813.
[m] *Hist.* l. 6.
[n] *Spelmani Concil. Tom.* 1. p. 34.
[o] *Lambard. Archaion.* p. 130. *Fox Acts & Mon.* vol. 1. p. 214.
[q] *Lib. cap.* 1. 2.
[r] *Surius Tom.* 3. p. 383.
[s] *Commonwealth.* l. 2. c. 4, 5.
[t] *De Rege et Regis Instit.* l. 1. c. 5. 6.
[u] *Lib.* 3. c. 9. fol. 107.
[x] *Lib.* 1. c. 17.
[z] *De Laudib. Legum Angl.* c. 9. to 15.
[a] Speech in Parliament House, *Anno* 1609.
[b] *Bract.* l. 3. c. 9. *Fleta* l. 1. c. 17. *Fortesc.* c. 9. to 15. *Cooke* 7. Report *fol.* 5. 11. *Calvins Case* Rom. 13 4, 5. 1 Pet. 2. 14.
[c] See the *Appendix.*
[d] 2 Sam. 23. 3 2 Chro 9. 8 See the Kings Coron. oath.
[g] Rom. 13. 1 2, 3. 1 Pet. 2 13, 14. Titus 3. 1
[c] *Pernicios. de Repub.* &c. *Ciceron de Legi.* 2 Sam. 12. 7. to 14. cap. 16. *Calvins Case.*

[z] 22. 2 Chr. 33. See *Marian. de Reg.* & *Reg. Inst.* l. 2. c. 9. [a] *De Leg. Ang.* c. 9. 10. 12. 13. 14. [b] *Lib.* 7. f. 5. *Calvins Case.* [c] *Lib.* 3. c. 9. f. 107. [g] *Lib.* 1. c. 17.

bellion and high *Treaſon*, by force of Armes, upon expreſſe command and direction of the whole Kingdome in Parliament, ſo much as to defend their Perſons, Goods, Eſtates, Houſes, Wives, Children, Liberties, Lives, Religion, againſt the open violence of the King himſelfe, or his Malignant plundring, murthering Papiſts, Caveleers: When as Kings of all others (as [h] *Bracton*, [i] *Forteſcue*, and [k] *Mariana* prove at large) both by Oath and Duty, ought to be more obſervant of, and obedient to the Laws of God and their Realmes (*which are* [l] *no reſpecters of Perſons*) then the very meaneſt of their Subjects. That Precept then of *Paul*, Rom. 13. 1. 2. 3. *Let every Soule be ſubject to the higher Powers, &c.* And the Statute of 25. *E.* 3. *c.* 2. with other obſolete Acts, which declare it *High Treaſon, to levy Warre againſt the King in his Realme*, muſt needs be intended of, and quallified with theſe ſubſequent juſt limitations, ſutable to their genuine ſenſe and meaning; to wit, That as long, and ſo farre foorth, as Kings juſtly and uprightly doe execute their juſt Royall power, conferred on them by God and their people, according to the Law of God, and their Realmes, to the Protection, encouragement and praiſe of all their good Subjects, and the deſerved puniſhment onely of Malefactors; they muſt and ought to be cheerefully obeyed, and quietly ſubmitted to, as Gods owne Miniſters, without the leaſt reſiſtance, private or publike; neither ought any private men upon any private injuries, of their owne authority to raiſe up in Armes againſt them, ſeeing they are publike Magiſtrates in whom all the Kingdome have an intereſt, without the generall aſſent and authority of the whole State and Kingdome, or of both Houſes of Parliament which repreſents it. But if Kings degenerate into Tyrants, and turne profeſſed enemies to their Kingdomes, Parliaments, People, by making open Warre againſt them; by ſpoyling, murthering, impriſoning, maiming, ſacking, deſtroying, or putting them out of their Protections, without any juſt or lawfull grounds, endeavouring by force of Armes to ſubvert their Lawes, Liberties, Religion, and expoſe them as a prey to their mercileſſe blood-thirſty Souldiers; or bring in Forraigne Forces to conquer them, (our preſent caſe;) I dare confidently averre, it was never the thought nor intention of *Paul*, or the Holy Ghoſt, much leſſe of our Nobles, Prelats, and Commons in Parliament, which enacted theſe Lawes (who ſo oft tooke up Armes, aſwell offenſive, as defenſive, againſt our Kings, in ſuch like caſes heretofore) to inhibit Subjects, Kingdomes, Parliaments (eſpecially, by direct Votes and Ordinances of both Houſes) under paine of damnation, high Treaſon, or Rebellion, by defenſive Armes to reſiſt Kings themſelves, or any of their Cavalliers: and if this queſtion had beene put to *Paul*, *Peter*, or any of thoſe Parliaments, which enacted theſe objected Lawes; *Whether they ever meant by theſe Precepts or Statutes, totally to prohibite all Subjects, by generall aſſent in Parliament, to take up ſuch defenſive Armes, or make any forceable reſiſtance, againſt their Kings or their Armes in ſuch caſes of extremity and neceſſity as theſe, under the foreſaid penalties?* I make little queſtion, but they would have clearely reſolved; that it was never ſo much within the compaſſe of their thoughts, much leſſe their plaine intention, to prohibit ſuch a reſiſtance, in this or ſuch like caſes, but onely according to the precedent expoſition of their words; and that they never imagined to eſtabliſh in the world an Vnreſiſtable Lawleſſe Tyranny, or any ſuch ſpoile or butchery of Kingdomes, of Subjects, execrable to God and man, in all perſons, all ages, which have * reſiſted them even unto blood; but rather totally to ſuppreſſe them; There being ſcarce any more pregnant

[h] *Lib* 3. *c.* 9.
[i] *De Laud. legum Angl. c.* 9. *to* 15.
[k] *De Rege & Regis Inſtit. l.* 1. *c.* 9.
[l] Deut. 10. 17 Prov. 28. 21 Rom. 2. 11. Epheſ 6. 11. 1 Pet. 1. 17.

* See Doctor *Beards* Theater of Gods Iudgements, *l.* 2. *c.* 13. *to* 42.

To

ext, against the Tyranny, the boundlesse Prerogatives, the illegall proceedings of ings, and Higher Powers in all the Scripture, then that of *Romans* 13. 1. to 7. if ghtly scanned, as *Pareus*, and others on it manifest. Therefore the Parliaments d peoples present defensive Warre, and resistance against their seduced King, and s Malignant Popish Cavalliers, is no violation of any Law of God, of the alme; but a just necessary Warre, which they have to the uttermost endeavoured prevent: and no Treason, no Rebellion at all within the meaning of any Law, Statute, unlesse we should thinke our Parliaments so mad, as to declare it high Trea-n, or Rebellion, even for the Parliament and Kingdome it selfe, so much as to take Armes for their owne necessary preservation, to prevent their inevitable ruine, hen they are openly assaulted by Royall armies; which none can ever presume they ould doe, being the very high way to their owne, and the whole Kingdomes bversion.

Fiftly, admit the King should bring in Forraigne forces (*French, Spanish, Danes, utch, or Irish*) to destroy, or Conquer his Subjects, Parliament, Kingdome, (as me such forces are already landed, and more expected dayly;) and should join him-lfe personally with them in such a service, I thinke there is no *Divine, Lawyer*, or ue hearted *English man*, so void of reason, or common understanding, as to affirme Treason, or Rebellion in point of *Law*, and a matter of *Damnation* in *Conscience*, true *Divinity*, for the Parliaments, Subjects, Kingdome, to take up necessary de-nsive armes for their owne preservation in such a case, even against the King him-lfe, and his army of *Aliens*; but would rather deeme it a just, honourable, necessa-action; yea, a duty, for every *English man* to venture his life, and all his fortunes, r the defence of his owne dearest Native Countrey, Posterity, Liberty, Religion; d no lesse then a glorious [m] *Martyrdome*, to dye manfully in the Field, in such a blicke quarrell: the very Heathens generally resolving; that [n] *Dulce & decorum est pro Patria mori: Et mortes pro Patria appetitæ, Non solum gloriosæ Rhetoribus, sed etiam beatæ videri solent:* In a case of this quallitie. Whence that noble omane [o] *Camillus*, professed to all the Romanes in a publike Oration; *Patriæ deesse quod vita suppetat, aliis turpe, Camillo etiam NEFAS EST.* And is not there the fe same equity, and reason, when the King shall raise an Army of Popish Eng-h, or Irish Rebels, Malignants, Delinquents, and bring in Forraigners hough yet in no great proporation) to effect the like designe. If armed force-e resistance be no Treason, no Rebellion in Law or Conscience, in the first, it can no such crime in our present case.

[m] *Gratian. Causa 23 qu. 1. 2. 3. Calvin. Lexicon. Iurid Tit Bellum.*
[n] *Cicero Tusc. quæst. l. 2.*
[o] *Liv Rom. Hist. l. 5. c. 51. p. 219.*

Sixtly, I would demand of any Lawyer, or Divine: What is the true genuine ason, that the taking up of offensive armes against, or offering violence to the person, life of the King, is High Treason, in point of Law and Divinitie? Is it not onely *ause and as he is, the head and chiefe member of the Kingdome, which hath a Common terest in him*; and because *the King owne it selfe sustaines a publike prejudice and losse his War against, and violence to his Person?* Doubtlesse, every man must acknow-ge this, to be the onely reason; for if he were not such a publike person, the ying War against, or murthering of him, could be no High Treason at all. And this the reason, why the elsewhere cited Statutes of our Realme, together with our storians, make levying of Warre, deposing, or killing the King by private per-ons, High Treason; not *onely against the King, but the REALME, and King-*

dome

dom: to; Witneſſe the Statutes of 5. *R.* 2. c. 6. 11. *R.* 2. c. 1. 3. 6. 17. *R.* 2. c. 8. 21. *R.* 2. c. 2. 4. 20. 3. *H.* 5. *Parl.* 2. c. 6. 28. *H.* 8. c. 7. 1. *Mar.* c. 6. 13. *Eliz.* c. 1. 3. *Iaco.* 1. 2, 3, 4. and the Act of Pacification this preſent Parliament, (declaring thoſe perſons of *England* and *Scotland* TRAITORS TO EITHER REALME, who ſhall take up Armes againſt either Realme, without common conſent of Parliament) which Enact, *The levying of Warre againſt the Kingdome and Parliament, invading of* England *or* Ireland, *treachery againſt the Parliament, repealing of certaine Acts of Parliament, ill Counſelling the King, coyning falſe Money, and offering violence to the Kings perſon, to take away his Life, to be high Treaſon*, not onely *againſt the King and his Crowne, but* THE REALME TO; and thoſe who are guilty of ſuch crimes, *to bee High Traitors* [and *Enemies* TO THE REALME, *as well at to the King*. Hence *Iohn of Gaunt*, Duke of *Lancaſter*, being accuſed in a Parliament held in 7. *R.* 2. by a *Carmelite* Frier, *of High Treaſon, for practiſing ſodainely to ſurpriſe the* KING, *and ſeize upon his Kingdome*; the Duke denied it, as a thing incredible upon this very ground; *If I ſhould thus* (ſaid he) *affect the Kingdome: Is it credible after your murder* (which God forbid) *that the Lords of this Kingdome, could patiently endure me*, Domini mei ET PATRIÆ PRODITOREM, *being a Traitor both of my LORD and COUNTREY?* Hence in the ſame Parliament of 7. *R.* 2. *John Walſh* Eſquire Captaine of *Cherburg* in *France*, was accuſed by one of *Navarre*, DE PRODITIONE REGIS & REGNI, *Of Treaſon againſt the King and Kingdome*; for delivering up that Caſtle to the Enemies; And in the [r] Parliament of 3. *R.* 2. Sir *John Annesley* Knight, accuſed *Thomas Ketrington* Eſquire, of Treaſon againſt the King and Realme, for betraying and ſelling the Caſtle of Saint *Saviour* within the Iſle of *Conſtantine* in *France*, to the *French*, for a great ſumme of money; when as he neither wanted Victuals, nor meanes to defend it: both which Accuſations (being of Treaſons beyond the Sea) were determined by Battle, and Duels fought to decide them. Hence the great Favourite, *Pierce Gaveſton, Tanquam Legum ſubverſor, Hoſt* Terræ Publicus, & Publicus Regni Proditor, *capite truncatus eſt*: and the two *Spenſers* after him, were in *Edward* the ſecond his Raigne likewiſe baniſhed, condemned, and executed, *as Traitors to the King and Realme*, ET REGNI PRODITORES, *for miſcounſelling and ſeducing the King, and moving him to make Warre upon his people*: Hence both the [t] *Pierces*, and the *Archbiſhop of Yorke*, in the Articles againſt King *Henry* the fourth, accuſed him, as guilty of High Treaſon, a *Traitor both to the King, Realme and Kingdome* of *England*, for Depoſing and murthering *Richard* the ſecond. And hence the Gunpouder Conſpirators, *were* [u] *declared, adjudged, and executed as Traitors both to the* KING & REALME, *for attempting to blow up the Parliament Houſe, when the King, Nobles, and Commons were therein aſſembled*: If then the King ſhall become an open enemie to his Kingdome, and Subjects, to waſte or ruine them; or ſhall ſeeke to betray them to a Forraigne Enemy (which hath beene held no leſſe then Treaſon in a King to doe, which by the expreſſe reſolution of 28. *H.* 8. *cap.* 7. may become a *Traitor to the REALME, and thereupon forfeit his very right and title to the Crowne*;) it can be no Treaſon nor Rebellion in *Law* or *Theologie*, for the Parliament, Kingdome, Subjects, to take armes againſt the King and his Forces, in ſuch a caſe, when he ſhal wilfully and manifeſtly rent himſelfe from, and ſet himſelfe in direct oppoſition againſt his Kingdo

[e] *Walſingh. Hiſt. Ang.* p. 334. 335.

[f] *Walſing. hiſt Ang.* p. 337.

[g] *Walſing. hiſt. Ang.* p. 245. 246.

[h] *Walſing. hiſt Ang* p. 72. 76 91, 92. 105, 106.

[i] *Halls Chro:* 1 & 3 H. 4 f. 17, 22. *Fox Acts & Mon.* vol. 1. Edit. ult. Col. 676, 677.

[u] 3 *Iac.* c. 1, 2, 3, 4. The Kings Proclamations. 3 *Iacob.* Againſt them, and the Arraignement of Traitors.

nd by his owne voluntary actions turne their common interest in him for their good nd protection, into a publicke engagement against him, as a common Enemy, who eekes their generall ruine. And if Kings may lawfully take up armes against their ubjects, as all Royallists plead, after they reject their lawfull power, and become open ebels or Traitors, because then as to this, they cease to be Subjects any longer, and so orfeit the benefit of their Royal protection: By the self-same reason (the bond and stipulation being mutuall; Kings being *their Subjects* × *Liege Lords*, by Oath and Duty, as well *as they their Liege people*:) When Kings turne open professed Foes to heir Subjects in an Hostile Warrelike way, they presently both in Law and Conience, cease to be their Kings *de jure*, as to this particular, and their Subjects allegiance thereby is as to this discharged, and suspended towards them, as appeares by the Kings Coronation Oath, and the * *Lords and Prelats conditionall Fealty* to King *teven*, so that they may justly in Law and Conscience resist their unlawfull attempts, as enemies; for which they must onely censure their owne rash unjust proceedings, and breach of Faith to their People, not their Peoples just defensive opposition which themselves alone occasioned.

× *Cooke 7. Report, Calvins case.*

* *Math. Paris pag. 73. Speed p. 483 484.*

Seventhly, It must of necessity be granted; that for any King to levie warre against his Subjects, unlesse upon very good grounds of Law and conscience, and in case of absolute necessity, when there is no other remedy left, is directly contrary to his very Oath and duty, witnes the *Law of King Edward the Confessor*, cap. 17. nd Coronation Oathes of all our Kings forementioned; To *keepe PEACE and godly agreement INTIRELY*, ACCORDING TO *THEIR POWER to their people*; Contrary to all the fundamentall Lawes of the Realme, and the Prologues of most Statutes, intirely to preserve, *and earnestly to indeavour the peace and welfare of their peoples persons, goods, estates, lawes, liberties*; Contrary to the main tenor of all y *Sacred Scriptures*, which have relation unto Kings; but more especially to he 1 *Kings* 12. 21. 23. 24. and 2 *Chron.* 11. 1. 2. Where *when King* Rehoboam *had gathered a very great army to fight against the ten Tribes, (which revolted from him for following his young Counsellors advice, and denying their just request*, and crowned *Ieroboam* for their King) *intending to reduce them to his obedience by force of armes*; *God by his Prophet Shemaiah expressely prohibited him and his army, to goe up, or fight against them; and made them all to returne to their owne houses without fighting, and so Isay* 14. 4. 19. to 22. where God threatens, *to cast the King of Babilon out of his grave, as an abhominable branch, as a carcasse trodden under foot*, (marke the reason) Because thou hast destroyed thy Land, and slaine thy People, to cut off from Babylon his name and remembrance, and Sonnes and Nephewes: as he had cut off his peoples, though heathens. Yea, contrary to that memorable Speech of that noble Roman * *Valerius Corvinus* when he was chosen Dictator, and went to fight against the Roman conspirators, who toke up armes against their Country. *Fugeris etiam Lentulus, tergumque civi dederis, quam pugnaveris contra patriam; nunc ad pacificandum bene atque honeste inter primos stabis: postulate aqua et ferte; quanquam vel iniquis standum est potius, quam impias inter nos conseramus manus, &c.* If then a Kings offensive warre upon his Subjects, without very just grounds and unevitable occasions be thus utterly sinfull, and unlawfull in law and Conscience; and most diametrally contrary to the Oath, Office, trust and duty of a King, (who by this strange metamorphosis (a) becomes a *Wolfe* instead of a Shepheard, a destroyer in liew of a

1 Tim. 2. 1 2, 3. Ier. 37 Psal. 122. 6. 7, 8 Ita. 29 8. & 9. 6.

* *Livy Rom. Hist. l. 7 Dic. 40, p. 285. Arist. Pont. l. 5 Mariana de Rege, l. c. c. 5.*

a *Arist. Polit. l. 3. & 5 Buchan. de Iure Regni apud Scotos.*

Protector; a publike *Enemy* in place of a *Common friend*; an *unnaturall Tyrant*, inſtead of a *naturall King*) it followes inevitably; that the Subjects or Kingdomes reſiſtance and defenſive warre in ſuch a caſe, both by the law of God, of nature, of the Realme, muſt be lawfull, and juſt; becauſe directly oppoſite to, the only preſervative againſt that warre, which is unlawfull and *unjuſt*: and ſo no Treaſon, nor Rebellion (by any Law of God or man,) which are illegall and criminall too.

Eightly, It is the received reſolution of all [b] Canoniſts, Schoolemen, and Civill Lawyers; *That a defenſive warre undertaken onely for neceſſary defence, doth not properly deſerve the nam of warre, but onely of Defence: That it is no levying of warre at all*, (which implies an active offenſive, not paſſive defenſive raiſing of forces, and ſo no Treaſon nor offence within the ſtatute of 25. *E.*3.c.2. as the Parliament, the onely proper Iudge of Treaſons, hath already reſolved in point of Law) *but a faculty onely of defence* Cuilibet Omni Iure, ipſoque Rationis Ductu Permiſſa; &c. permitted to every one By all Law, (or right) *and by the very conduct of reaſon, ſince to propulſe violence and iniury, is permitted by the very Law of Nations.* Hence of all the ſeven ſorts of warre which they make, they define the laſt to be, A juſt and Neceſſary War *quod fit ſe et ſua defendendo*; *and that thoſe who die in ſuch a war* (*cæteris paribus*) *are ſafe* (*Cauſa* 23. qu.1.) *and if they be ſlaine for defence of the Common-wealth, their memory ſhall live in perpetuall glory.* And hence they give this Definition of a juſt Warre. [c] *Warre is a* Lawfull Defence *againſt an immineent or praceeding offence upon a publike or private cauſe, concluding: That if* Defence *be ſevered from Warre, it is a* Sedition, *not Warre*; Although the Emperour himſelfe denounce it; *Yea*, although the whole World combined together, Proclaime it: *For the Emperour, or King, can no more lawfully hurt another in Warre, then he can take away his goods or life without cauſe. Therefore let Commentators brawle eternally about Warre, yet they ſhall never juſtifie nor prove it lawfull*, Niſi ex Defenſione Legitima; *but when it proceeds from Lawfull defence, all Warres being raſh and unjuſt, againſt thoſe who juſtly defend themſelves.* This Warre then being undertaken by the Parliament, onely for their owne, and the Kingdomes neceſſary defence, againſt the Kings invaſive Armies and Cavalliers (eſpecially, now after the Kings rejection of all Honourable and ſafe termes of Peace and accommodation tendered to him by the Parliament:) muſt needs be juſt and lawfull; and ſo no Treaſon, nor Rebellion, in point of Law or Conſcience; Since no Law of God, nor of the Realme, hath given the King any Authority or Commiſſion at all to make this unnaturall Warre upon his Parliament, his people, to enſlave their Soules and Bodies, or any inhibition to them, not to defend themſelves in ſuch a caſe.

[b] *Gratian. Cauſa*, 23. qu. 1, 2, 3. *Iacob. Spielegius, Lexicon Iuris, tit Bellum. F. de Iuſtitia et jure Non ſine. Ioannis Calvini Lexicon Iuris. Tit. Bellum co.* 244. 245. *Summa Angelica, et Roſella Aenſis Sum. Part.* 3. qu. 36. *mem.* 3. *& queſt.* 47. *num.* 3. *Martin Laud. de Bello, Surius Concil. Tom.* 3. p. 520.

[c] *Calv. Lexicon. Iurid. Ib. ex Hotomano.* and other forcited.

Theſe generall Conſiderations thus premiſed, wherein Law and Conſcience walke hand in hand; I ſhall in the next place lay downe ſuch particular grounds for the juſtification of this Warre, which are meerely Legall; extracted out of the bowels of our knowne Lawes; which no profeſſors of them can contradict.

Firſt, It is unqueſtionable, that by the Common and Statute Law of the Land, the King himſelfe, who cannot lawfully proclaime Warre againſt a Forraigne Enemy, much leſſe againſt his people, without his Parliaments previous aſſent, as I have elſewhere proved; cannot by his *abſolute Soveraigne Prerogative, either by verball Commands, or Commiſſions under the great Seale of England, derive any lawfull or juſt Authority to any Generall, Captaine, Cavalliers, or perſon whatſoever, without*

Legall

Legall Triall and Conviction, to seize the Goods or Chattels of any his Subjects, much lesse forcecibly to Rob, Spoile, Plunder, Wound, Beat, Kill, Imprison, or make open War upon them, without a most just and inevitable occasion, and that after open hostility denounced against them. And if any by vertue of such illegal Commissions or Mandats, Assault, Plunder, Spoile, Rob, Beat, Wound, Slay, Imprison, the Goods, Chattels, Houses, Persons of any Subject not lawfully convicted; *They may, and ought to be proceeded against, resisted, apprehended, indicted condemned for it, notwithstanding such Commissions, as Trespassers, Theeves, Burglarers, Felons, Murderers, both by Statute, and Common Law*; As is clearely enacted and resolved, by *Magna Charta*, cap. 29. 15. E. 3. Stat. 1. cap. 1. 2. 3. 42. E. 3. cap. 1. 3. 28. *E.* 1. *Artic. super Chartas*, cap. 2. 4 *E.* 3. c. 4 5. *E.* 3. cap. 2. 24. *E.* 3. cap. 1. 2 *R.* 2. cap. 7. 5 *R.* 2. ca 5. 1. *H.* 5. cap. 6. 11. *R.* 2. cap. 1. *to* 6. 24 *H.* 8. cap. 5. 21. *Jacob.* c. 3. Against *Monopolies*. The *Petition of Right*. 3. *Caroli* 2. *E.* 3. c. 8. 14. *E.* 3. ca. 14. 18. *E.* 3. *Stat.* 3. 20. *E.* 3. cap. 1. 2. 3. 1. *R.* 2. cap. 2. And generally all Satutes against *Purveyers* 42. *Ass. Pl.* 5. 12. *Brooke Commissions*, 15. 16. *Fortescue*, cap. 8. 9. 10. 13. 14. 26. 1. *E.* 3. 2. 2. *H.* 4. 24. *Br. Faux Imprisonment*, 30. 28. 22. *E.* 4 45. *a Tr.* 16. *H.* 6. *Monstrans de Faits* 182. *Stamford* lib. 1. fol. 13. a. 37. a. The Conference at the Committies of both Houses, 3°. *Aprilis*, 4°. *Caroli*, concerning the Right and Priviledge of the Subject: newly Printed. *Cooke* lib. 5. fol. 50. 51. lib. 7. fol. 36. 37. lib. 8. fol. 125. *to* 129. Iudge *Crooks* and *Huttons* Arguments, against *Shipmoney*, with divers other Law-Bookes. Therefore the Cavalliers can no waies justifie, nor excuse their Wounding, Murthering, Imprisoning, Assaulting, Robbing, Pillaging, and spoiling of his Majesties people and Subjects, and making Warre upon them, by vertue of any Warrant or Commission from the King; but may justly and legally be apprehended, resisted, and proceeded against, as Murtherers, Rebels, Robbers, Felons, notwithstanding any pretended Royall Authority to countenance their execrable unnaturall proceedings.

Secondly, It is irrefragable, that the Subjects in defence of their own Persons, Houses, Goods, Wives, Families, against such as violently assault them by open force of Armes, to wound, slay, beate, imprison, robbe, or plunder them (though by the Kings own illegall Commission) may not onely lawfully arme themselves, and fortifie their houses (their Castles in Iudgement of Law,) against them; but resist, apprehend, disarme, beat, wound, repulse, kill them in their just necessary defence; not onely without guilt of Treason, or Rebellion, but of Trespas, or the very least offence; And Servants in such Cases may lawfully justifie, not onely the beating, but killing of such persons, who assault their Masters persons, goods, or houses; as is expresly resolved by the Statute of 21. *E.* 1. *De malefactoribus in Parcis*; By 24. *H.* 8. cap. 5. *Fitzherbert, Corone*, 192. 194. 246. 25. 261. 330. 21. *H.* 7 39. *Trespas*, 246. *Stamford*, lib. 1. cap. 5. 6. 7. 22. *Ass.* 46. 11. *H.* 6. 16. *a.* 14 *H.* 6 24. *b* 35. *H.* 6. 51. *a.* 9. *E.* 4. 48. *b.* 12. *E.* 4. 6 *a.* 12. *H.* 8. 2. *b.* *Brooke. Coron* 63. *& Trespas* 217. Therefore they may justly defend themselves, resist, oppose, apprehend, and kill his Majesties Cavalliers, notwithstanding any Commissions, and make a defensive Warre against them; when as they assault their persons, houses, goods, or habitations, without any Treason, Rebellion, or Crime all against the King or Law.

Thirdly, It is past dispute, That the Sheriffes Iustices of Peace, Mayors, Constables

'and all other Officers of the Realme, may and ought by our Lawes and Statutes to 'raiſe the power of the Counties and places where they live, and command all 'perſons to arme themſelves to aſſiſt them upon their Command, when they ſee 'juſt cauſe (which commands they are all bound to obey under paine of impriſonment 'and fines, for their contemptuous diſobedience herein:) to ſuppreſſe and withſtand all, 'publicke breaches of the Peace, Riots, Routs, Robberies, Fraies, Tumults, Forci-'ble Entries, and to apprehend, diſarme, impriſon, and bring to condigne puniſh-'ment all Peace-breakers, Riotors, Treſpaſſers, Robbers, Plunderers, Quarrellers, 'Murtherers, and Forces met together, to doe any unlawfull Hoſtile act, (though by 'the Kings owne precept:) and in caſe they make reſiſtance of their power, 'they may lawfully kill and ſlay them without crime or guilt, if they cannot other-'wiſe ſuppreſſe or apprehend them: yea, the Sheriffes, and all other Officers may 'lawfully raiſe and arme the power of the County to apprehend Delinquents, by 'lawfull Warrants from the Parliament, or Proceſſe out of other inferiour Courts 'of Iuſtice, when they contemptuouſly ſtand out againſt their Iuſtice, and will not 'render themſelves to a Legall triall; in which ſervice all are bound by Law to aſſiſt 'theſe Officers, who may lawfully ſlay ſuch contemptuous Offenders, in caſe they can-'not otherwiſe apprehend them. All which is Enacted and Reſolved by 19. *E.* 3. cap. 38. 3. *Ed.* 1. cap. 5. 2. *R.* 2. cap. 6. 5. *R.* 2. cap. 5 6. 7. *R.* 2. cap. 6. 17. *R.* 2. cap. 8. 13. *H.* 4 cap. 7. 1. *H.* 5. cap. 6. 2. *H.* 5. cap. 6. 8. 19. *H.* 7. cap. 13. 3. *E.* 6 cap. 5. 1. *Mar.* cap. 12. 31. *H.* 6 cap. 2. 19. *E.* 2. *Fitz Execution*, 247. 8. *H.* 4. 19. *a* 22. *Aſſ.* 55. 3. *H.* 7. fol. 1. 10. 5. *H.* 7. fol 4. *Regiſter*, f. 59 60. 61. *Fiz. Coron.* 261. 288. 289, 328. 346. *Stamford* lib. 1. cap. 5. 6. *Cooke* lib. 5. fol. 92. 93. with ſundry other Bookes, and Acts of Parliament, and *Walſingham Hiſt. Angliæ* pag. 282. 284. Yea, the Statute of 13. *Ed.* 1. cap. 38. recites; That *ſuch reſiſtance of Proceſſe out of any the Kings Courts* (much more then out of the Higheſt Court of Parliament) *redounds much to the diſhonour of the King and his Crowne; and that ſuch reſiſters ſhall be impriſoned and fined, becauſe they are diſturbers of the Kings Peace, and of his Realme.* And the expired Statute of 31. *H.* 6. cap. 2. Enacted: *That if any Duke, Marqueſſe, Earle, Viſcount, or Baron, com-plained of for any great Riots, Extortions, Oppreſſions, or any offence by them done againſt the Peace and Lawes, to any of the Kings Liege people, ſhould refuſe to obey the Proceſſe of the Kings Court, under his Great or privie Seale, to him directed, to anſwer his ſaid offenes; either by refuſing to receive the ſaid Proceſſe, or diſpiſing it, or withdrawing himſelfe for that cauſe, and not appearing after Proclamation made by the Sheriffe in the County, at the day preſcribed by the Proclamation; that then hee ſhould for this his contempt, forfeit and loſe all his Offices, Fees, Annuities, and other poſſeſſions that he, or any man to his uſe, hath of the gift or grant of the King, or any of his Progenitors, made to him or any of his Anceſtors: And in caſe he appeares not upon the ſecond Proclamation on the day therein to him limited; that then he ſhall ſtand and forfeit his* Eſtate and place in Parliament, *and alſo* All the Lands and Tenements *which he hath, or any other to his uſe for terme of his life, and all other perſons having no Lands not appearing after Proclamation, were to be put out of the Kings Protection by this Act.* Such a heinous offence was it then reputed, to diſobey the Proceſſe of Chancery, and other inferiour Courts of Iuſtice even in the greateſt Peeres; how much greater crime then is, and muſt it be, contemptuouſly to diſobey the Summons

Pro

Proceſſe, and Officers of the Parliament it ſelfe, the ſupremeſt Court of Judicature, ſpecially in thoſe who are Members of it, and ſtand engaged by their Proteſtations, truſts, and Places in it, to maintaine its honour, power, and priviledges to the uttermoſt? which many of them now exceedingly vilifie, and trample under feete: and therefore deſerve a ſeverer cenſure then this ſtatute inflicts; even ſuch as the Act of 21. R. 2, c. 6. preſcribed to thoſe Nobles unjuſtly fore judged in that Parliament; *That he r iſſues males now begotten ſhall not come to the Parliaments, nor to the Councells of the King nor his heires; nor be of the Kings Counſell nor of his heires;* Therefore it is undubitable, that the Sheriffes, Iuſtices of Peace, Majors, Conſtables, Leivtenantes, Captaines, and other Officers in every County through the Realme, may by their owne Authority (much more by an Ordinance and Act of aſſociation of both houſes) raiſe all the power of the County, & all the people by vertue of ſuch commands may lawfully meete together in Armes to ſuppreſſe the riots, burglaries, rapines, plunders, butcheries, ſpoyling, robberies, and armed violence of his Majeſties Cavaleers; and apprehend, imprifon, ſlay, arraigne, execute them as common enemies to the kingdomes peace and welfare, even by the knowne Common Law, and Statutes of the Realme, and ſeiſe Delinquents notwithſtanding any royall Commiſſion or perſonal commands they may or can produce.

Fourthly, it is moſt certaine, that every Subject by the *very Common Law of the Realm,* (yea Law of Nature) as he is a member of the State and Church of *England*, is bound [d] *not in duty and conſcience, when there is neceſſary occaſion, to Array and Arme himſelfe to reſiſt the invaſions, and aſſaults of open enemies of the Realme, eſpecially of Forreiners,* as is cleare by *infinite* * *Preſidents*, cited by the Kings owne Councell, and recited by Iudge Crooke in his Argument concerning Ship-money; in both the *Houſes two Remonſtrances and Declarations againſt the Commiſſion of Array*; and the Anſwer of the firſt of them in the Kings name; all newly Printed (to which I ſhall referre the Reader for fuller Satisfaction:) and by the expreſſe ſtatutes of 1 *E.* 3. c. 5. 25. *E.* 3. c. 8. and 4. *H.* 4. c. 13. The reaſon is from the Originall compact and mutuall ſtipulation of every member of any Republicke, State or Society of men for mutuall defence one of another upon all occaſions of invaſion, made at their firſt aſſociation and incorporation into a Republike, ſtate, kingdome, Nation, of which we have a pregnant example, *Iudg.* 20. 1. to 48. If then the King himſelfe ſhall introduce forraigne Forces and enemies into his Realme to levie warre againſt it, or ſhall himſelf become an open enemie to it; the Subjects are obleiged, by the ſelf-ſame reaſon, law, equity, eſpecially upon the Parliaments command, to Arm themſelves to defend their Native Country, Kingdome againſt theſe forraigne and domeſticke Forces, and the King himſelfe if he joyne with them; as farre forth as they are bound to doe it upon the Kings own Writ and Commiſſion, in caſe he joyned with the Parliament and Kingdome againſt them; the neceſſary defence and preſervation of the Kingdome and themſelves (and of the King onely ſo farre forth as he ſhewes himſelfe a King and Patron, not an enemie of his Kingdome, and Subjects,) being the ſole ground of their engagement in ſuch defenſive warres: according to this notable reſolution of *Cicero*, [f] *Omnium Societatum nulla eſt gratior, nulla carior quam ea quæ cum Republica eſt unicuique noſtrum Patria ſuri ſunt parentes, eis liberi, propinqui, familiares, SED OMNES OMNIVM CARITATES PATRIA UNA COMPLEXA EST, pro qua quis bonus dubitet mortem oppetere, ſi ei ſit profuturus? Quo eſt deteſtabilior illorum immanitas, qui*

[d] See principally 48. H 3. Rot. Pat Mem 7. & Mem. 11 Doſſ.

* See *Ariſtot. Pol.* l. 1, c. 1, 2, & l. 2, 3 *Polib. hiſt* l. 6. *Forteſcue*, c. 9. to 15.

[f] *De Officiis* l. 2. p. 626.

qui

qui lacerant omni ſcelere Patriam, & in ea funditus delenda occupati & ſunt & fuerunt

g Exod. 32.9. to 15.32. Num. 14.11. to 15. 2 Sam. 8.9.17.1 Chr. 21.17. Iohn 10.11.15.c. 21.48.49.50.

and ſeeing kings themſelves as well as Subjects are bound to g hazard their lives for the preſervation of their Kingdomes, and peoples ſafetie; and not to endanger the ruine of the Kingdome and people to preſerve their owne lives and prerogatives as I have elſewhere manifeſted; it cannot be denyed, but that every Subject, when the King is unjuſtly divided againſt his Kingdome, Parliament, and People, is more obleiged to joyne with the kingdome, Parliament, and his Native deareſt Countrey (who are moſt conſiderable) againſt the King; than with the king againſt them; and rather in ſuch a caſe than any other, becauſe there is leſſe neede of helpe, and no ſuch danger of ruine to the whole Realme and Nation, when the King joynes with them againſt forraigne invading enemies; as there is when the king himſelfe becomes an open inteſtine Foe unto them, againſt his Oath and Duty: and the h *Peoples ſafetie being the Supremeſt* Law, & the Houſes of Parliament the moſt Soveraigne Authorities they ought in ſuch unhappie caſes of extremitie and diviſion to overſway all Subjects to contribute their beſt aſſiſtance for their neceſſary juſt defence, even againſt the king himſelf and all his Partiſans, who take up Hoſtile Armes againſt them, and not to aſſiſt them to ruine their owne Country, Kingdome, Nation, as many as now over-raſhly do.

h *Cicero de Legibus.*

Fifthly, I conceive it cleare Law, that if the King himſelfe, or his Courtiers with him, ſhall wrongfully aſſault any of his Subjects to wound, rob, or murther them without juſt cauſe, that the ſubjects, without any guilt of Treaſon or Rebellion, may not onely in their owne defenſe reſiſt the King and his Courtiers aſſaults in ſuch a caſe and hold their hands (as i Doctor *Ferne* himſelfe accords) but likewiſe cloſe with, and diſarme them; and if the King or his Courtiers receive any blowes, wounds, in ſuch a caſe, or be caſually ſlaine, it is neither Treaſon nor Murder, in the Defendants, who had no Treaſonable nor murtherous intention at all in them, but onely endeavoured their own juſt defence, attempting nothing at all againſt the kings lawful Royall authority: as is cleare by all Law k Caſes, of man ſlaughter, *ſe defendendo*, and to put this out of queſtion, I ſhall cite but two or three caſes of like Nature. It hath beene *very* l *frequent with the Kings of England, France, and other Princes*, for triall of their manhood, *to runne at Iouſts, and fight at Barriers, not onely with forraigners, but with their owne valianteſt Lords and Knights, of which there are various Examples.* In theſe Martiall diſports, *by the very Law of Armes*, theſe Subjects have not onely defended themſelves againſt their kings aſſaults and blowes; *but retorted lance for lance, ſtroke for ſtroke, and ſometimes unhorſed, diſarmed, and wounded their Kings, our* m *King Henry the eight, being like to be ſlaine by the Earle of Suffolke, at a Tilting in the 16. yeare of his reigne*: and no longer ſince then the yeare 1559. *Henry* the 2d, King of *France* was caſually ſlaine in a Iouſt by the Earle of *Mountgommery*, his Subject, (whom he commanded to Iuſt one bout more with him againſt his will) whoſe Speare in the counter-blow ran ſo right into one of the Kings eyes, that the ſhivers of it peirced into his head, periſhed his braine and ſlew him: yet this was Iudged no Treaſon, Fellonie nor offence at all in the Earle, who had no ill intention. If then it hath ever beene reputed lawfull and honourable, for Subiects in ſuch militarie exerciſes, upon the challenges of their kings, to defend themſelves courageouſly againſt their aſſaults, and thus fight with and encounter them in a martiall manner, though there were no neceſſitie for them to anſwer ſuch a challenge; and the caſuall wounding or ſlaying of the King by a Subiect in ſuch a caſe be neither Treaſon nor Fellony: then much more muſt it be lay

i *Reſolution of Conſcience.* Sect. 2.

k See *Stamfords Pleas. f.* 14.15.16.

l See *Andrew Favine* his Theatre of Honour *l.*10. *c.*5.6.7. *Halls Chron. H.*8.*f.* 6.7.9.11.12. 58.63.68.78. 85.91.95. 146.154.

m *Hall An.*16. *H.*8.*f.* 122. 123.

(n) *Fox* Acts and Monuments, *vol.* 3. *Edit* ult. p. 969.970. *Jean Crespin. Eſtate de Leſgliſe. An.* 1559.p.615. The generall Hiſtory of *France* in his life.p.677.

full by the Law of Armes, Nature, and the kingdome, for the Parliament and subs in a necessary, just, unavoydable warre, to defend, resist, repulse the kings and Cavaleers personall assaults, and returne them blow for blow, shot for shot, if they l wilfully invade them; and if the king or any of his Forces miscarry in this action, y must (like King [o] *Henry* the 8th when endangered by tilting) blame *themselves* ne, and have no other just legall remedie but patience, it being neither Treason, bellion, nor Murther in the defensive party, and most desperate folly and frenzie ny Prince, to engage himselfe in such a danger, when he neede not doe it. I reade [p] *Charles* the first of *France*; that he fell sodainely *distracted upon a message he receiv-d from an old poore man, as he was marching in the head of his Army*; *and thereupon nking himselfe betrayed encountred his owne men, and slew two or three of themere they re ware of him, wounding others. Whereupon they closing with him, disarmed and led s away forceably, keeping him close shut up like a Bedlam, till he recovered his senses.* I nke no man in his right wits, will deeme this their action Treasonable or unlawfull; ther did the king or any in that age thus repute it. If then a King in an angry nticke passion (for [q] *Ira brevius furor est:*) shall take up Armes against his loyall bjects, and assault their persons to murther them and spoyle their goods; if they (by mmon consent in Parliament especially) shall forcibly resist, disarme or restraine s person, till his fury be appeased, and his judgement rectified by better councells; all this be Treason, Rebellion, or Disloyaltie? God forbid: I thinke none but mad en can or will averre it. It was a great doubt in Law, till the statute of 33. H. 8. 20. setled it, *If a party that had committed any high Treasons when he was of perfect emory; after accusation, examination, and confession thereof be. am: madde or lunaticke; ether he should be tried and condemned for it during this distemper*? And some from at very act (and 21. H. 7. 31. 36. *Ass* 27. 12. H. 3. Forfaiture 33. and *Dower* 183. *itz. Nat. Br.* 202. *D. Stamford Pleas*, 16. *b.* and *Cooke. l.* 4. *f.* 124. *Beverlyes* case, hich resolve, that *a Lunaticke or Non Compos cannot be guilty of murther, felony, or ite Treason, because having no understanding, and knowing not what he doth, he can have felonius intention*) conceive, that a reall mad-man cannot be guilty of high Treason hough Sir *Edward Cooke* in *Beverlies* case, be of a contrary opinion) if he should aslt or kill his king. And I suppose few will deeme [r] *Walter Terrils* casuall killing King *William Rufus* with the glance of his arrow from a tree, shot at a Deere, high reason; neither was it then reputed so, or he prosecuted as a Traytor for it, because had no malicious intention (as most thinke) against the King, or any thought to rt him. But I conceive it out of question, if a king in a distracted furious passion with- t just cause, shall invade his subjects persons in an open hostile manner to destroy em; it neither is, nor can be Treason nor Rebellion in them, if in their owne necesy defence alone they shall either casually wound or slay him contrary to their loyall tentions; and those [s] *Statutes and Law-bookes* which judge it high Treason, for y one maliciously and trayterously to imagine, compasse or conspire the death of e King; will not at all extend to such a case of meere just defence; since a conspiie or imagination to compasse or procure the Kings death, can neither be justly agined nor presumed, in those who are but meerely defensive, no more then in oer common cases of one mans killing another in his owne inevitable defence with- t any precedent malice; in which a *Pardon by Law, is granted of course*: however, estionlesse it is no Treason nor murther at all to slay any of the kings souldiers and valiers who are no kings, in such a defensive warre.

Sixthly,

[o] *Hall's Chron. f.* 123. 16. *H.* 8

[p] General History of *France* p. 227. 228. *Fabians Chron part.* 7. in his life; with others.

[q] *Seneca de Ira.*

[r] *Eadmerus, Malmes. Hunt. Hoveden, Mat. West. Mat. Par. Polychronicon, Fab. Caxton, Holinsh. Grof. Speed, Daniel,* and others in the life of *Wil. Rufus.*

[s] see *Stamford Bracton, Fitzherbert, Brook, Crompt. Tit. Treason & Coron.*

Sixthly, ſuppoſe the King ſhould be captivated, or violently led away by any forraign or domeſticke enemies to him and the kingdome, and carried along with them in the field, to countenance their warres and invaſions upon his loyalleſt Subjects, by illegall warrants or Commiſſions frauduiently procured, or extorted from him. If the Parliament and Kingdome in ſuch a caſe, ſh uld raiſe an Army to reſcue the King out of their hands, and to that end encountring the enemies, ſhould caſually wound the King whiles they out of loyalty ſought onely to reſcue him; I would demaund of any Lawyer or Divine, whether this Act ſhould be deemed Treaſon, Rebellion or Diſloyalty in the Parliament or army? Or which of the two *Armies* ſhould in point of Law or Conſcience be reputed Rebells or Traytors in this caſe? thoſe that come onely to reſcue the King, and ſo fight really for him indeed, though againſt him in ſhew; and wound him in the reſcue? Or thoſe who in ſhew onely fought for him, that they might ſtill detaine him captive to their wills? Doubtleſſe there is no Lawyer, nor Theologue but would preſently reſolve in ſuch a caſe, that the Parliaments *Army* which fought onely to reſcue the King were the loyall Subjects; and the Malignants army who held him captive with them, the onely Rebels and traytors; and that the caſuall wounding of him (proceeding not out of any malicious intention, but love and loyalty to redeeme him from captivity,) were no treſpaſſe nor offence at all, being quite beſides their thoughts: and for a direct preſident; It was the very caſe of King [e] *Hen.* the third; who (together with his ſonne Prince *Edward*) being taken Priſoner by the Earle of *Leyceſter* in the battle of *Lewis*, and the Earle afterwards carrying him about in his Company in nature of a Priſoner, to countenance his actions, to the great diſcontent of the *Prince*, the Earle of *Gloceſter* and other Nobles; hereupon the Prince and they raiſing an Army, encountred the Earle, and his Forces in a battle at *Eveſham* where the King was perſonally preſent, ſlew the Earle, Routed his Army, and reſcued the king; in this cruell battell, the [n] king himſelfe (being wounded unawares with a Iavelin, by thoſe who reſcued him) was almoſt ſlaine, and loſt much of his blood: yet in a Parliament ſoone after ſommoned at *Wincheſter*, Anno 1266. the Earle and his Army were diſ-inherited as Traytors and Rebels; but thoſe who reſcued them thoug with danger to his perſon, rewarded as his loyall ſubjects. And is not this the preſe caſe? A company of malignant ill Councellors, Delinquents, Prelates, Papiſts, ha withdrawne his Majeſtie from his Parliament, raiſed an Army of Papiſts, Forraigner Delinquents and Male-contents, to ruin the Parliament, Kingdome, Religion, Lawe Liberties; to countenance this their deſigne, they detaine his Majeſtie with them, ar engage him all they can on their ſide: the Parliament out of no diſloyall intentio but onely to reſcue his Majeſties perſon out of their hands, to apprehend delinquen preſerve the Kingdome from ſpoyle, and defend their Priviledges, Perſons, Liberti eſtates, religion, from unjuſt invaſions, have raiſed a defenſive Army, which encountr theſe Forces at *Edgehill* (where they ſay the King was preſent) ſlew the Lord Gener (Earle of *Lindſey*) with many others; and as they never intended, ſo they offered kind of hurt or violence at all to his Majeſties perſon then or ſince; and now full ſe againſt their wils, Petitions, endeavours for peace, they are neceſſitated to continue t offenſive warre, for their owne and the Kingdomes neceſſary preſervation. The ſe queſtion is; *Whether this Act, this Defenſive Warre of the Parliament and their For be high Treaſon or Rebellion? and who are the Traytors and Rebells in this caſe?* Certa ly, if I underſtand any Law or Reaſon, the Parliament and their Forces are and n

[e] *Mat Par. An. 1266. p. 967. Speed p. 640 Dan. p. 180. 181. Holinſh. Graft. Stow*, and others.

[n] *In præſenti bello, Dominus Rex extitit vulneatus & morti pæne vicinus, jaculo in eum ex improviſo dejecto, Mat. Par. ibid.*

be innocent from these crimes; and their opposite Popish Malignant Cavaleers, the onely Rebels and Traytors; as this Parliament (the onely proper Judge of Treasons) hath * already voted and declared them in point of Law.

Seventhly, it is * *Littleton's* and other Law-bookes expresse resolutions; That if a man grant to another the Office of a Parkership, of a Parke for life, the estate which he hath is upon condition in Law (though not expressed) that he shall well and lawfully keepe the Parke, and doe that which to his Office belongeth to doe, or otherwise it shall be lawfull for the grantor and his heires to remove him, and grant it to another if he will: and if the Parker negligently suffer the Deere to be killed, or kill the Deere himselfe without sufficient warrant from his Lord, it is a direct forfaiture of his Office. If then a Keeper or Forrester cannot kill or negligently suffer his Deere to be killed (no nor yet destroy the vert on which they should feed, or suffer it to be destroyed) without forfaiture of his Office, even by a condition annexed to his Office by the very Common Law; shall a King, thinke you, lawfully murther, plunder and destroy his Subjects, his kingdome, without any forfaiture or resistance at all? or will the Common Law of the Land in such a case which provides and annexeth a condition to the Office of a Parker, not much more unite it to the royall Office of a King, (who is but a regall *Keeper*, or * *sheepheard of men*, of Christians, of free men, not of slaves) for the Subjects preservation and security? Doth the Common-Law thus provide for the safety, the Liberty, welfare of our beasts, yea our wilde beasts, are our Deere so *deare* unto it, and will it not much more provide for the security of our owne persons, Lives, Liberties, estates? shall not these be *dearer* to it than our *Deere*? How many * riged Lawes have beene anciently, and of late yeares made, against the killing, the destroying of the kings, the Subjects Deere in Forrests and Parkes, for which some have lost their Liberties, Lives, members? And shall not the Lawes for the preservation of the Subjects Lives, Liberties, estates be more inviolably observed, more severely prosecuted? May a Forrester, Warrener, or Keeper of a Parke lawfully beate and kill another in defence of his Deere and other game, without any penalty or forfaiture at all, enjoying the Kings Peace as before this fact, by the expresse statute of 21. *E.* 1. Rastall Forrests 19. and *Stamfords Pleas*, l. 1. c. 5. 6. And cannot a poore subject defend his owne person, family, house, goods, Libertie, life, against the kings Forces, or Cavaleers without the danger of Treason or Rebellion, if the king himselfe be present with them, or they come armed with his unjust Commission? Certainely this is a too absurd, irrationall, beastiall opinion for any to beleeve. It is our Saviours own doubled argument, *Mat.* 6. 26. *Luke* 12. 24. *Behold the fowles of the ayre, and consider the Ravens, for they neither sow nor reape, neither have store-house, nor barne; yet your heavenly Father feedeth them: ARE NOT YEE MUCH BETTER THEN THEY? THEN FOWLES? And Luke* 12. 6. 7. *Mat.* 10. 29. 30. 31. *Are not two sparrowes sold for a farthing? and not one of them shall fall to the ground without your Father: But the very haires of your head are all numbred; Feare ye not therefore; YE ARE OF MORE VALVE THEN MANY SPARROWES* And the Apostle hath the like argument, 1 *Cor.* 9. 9. 10. *Doth God take care for Oxen? Or saith he it not altogether for our sakes? for our sakes*, NO DOUBT THIS IS WRITTEN, &c. * *Men are the Soveraigne Lords of all the Creatures, of farre more excellencie and dignity then all, or any of them; especially Christian men*; whence the Apostle *Paul* gives his strict charge to the *Elders of Ephesus* (belonging as well to kings as Ministers) *Act.* 20. 28. *Take heed therefore unto all the flocke over which the holy Ghost hath made*

* See the Remonstrance of both Houses *Nov.* 2. 1642.

* *Littleton sect.* 378. *Cook. Inst. lib.* 3. 233. l. 5 *E.* 4. 26. 27. 1 *E.* 4. 1. b. 15 *E.* 4. 3 6. *Powden* p. 379. 380. 43. *E.* 3. c. 4. 4. *H.* 7. c. 6. 7. *Cooke* l. 9 *f.* 50, 95. 96. 99.

* Isa. 78. 70. 71. 72.

* See *Charta de Forresta. Rastals Abridgment, Title Forrests.* 3. *Jacic.* 13. *Petrus Bleserfis de Instit. Episcopi. Bibl. Patrum Tom* 12. *Pars* 2. p. 944. *Illud nihilominus absurdum, &c.*

* Gen. 1. 28. 29. 30. c. 9 2. Psa. 8. 4. 10. 9.

you over-ſeers to feed the Church of God which he hath purchaſed with his owne blood:
+Pſal.105. 14 15.1 Chr. 16.20 21. See the Vindication and Revindication of this Text. and God himſelfe hath given this expreſſe inhibition even to * *Kings themſelves*, concerning his and their peoples ſafety (moſt ſtrangely inverted by flattering Divines, quite contrary to the words and meaning:) *Touch not mine anointed, and do my Prophets no harme.* And ſhall not men then *made after Gods owne Image; men redeemed and purchaſed by the blood of Chriſt*; men *made* * *Kings and Prieſts to God their Father*, whom God himſelfe hath expreſſely prohibited *Kings themſelves to touch or harme*; not be allowed liberty to defend their perſons, houſes, lives, liberties, without offence or Treaſon, againſt Kings or any their Cavaleers aſſaults, by the Law of God, the Common or ſtatute Law of the Realme; when as their very Keepers, Warreners, Forreſters may lawfully reſiſt, and ſlay them to without crime or puniſhment, if they ſhould offer but to kill, *to ſteale their Deere or Connies?* Are they not much better, much dearer to God, to Kings, then foules? then Sparrowes? then Oxen? then Deere? and their lives, their blood more precious then theirs? ſurely the Scripture is expreſſe: *that * precious in the ſight of the Lord is the blood, the death of his Saints*; and therefore * *he that ſheddeth mans blood* (be he whom he will in an unlawfull way) *by man ſhall his blood be ſhed*; if not in a judiciall way, yet by way of juſt defence, as Chriſt himſelf expounds it, *Mat.* 26, 52. *ALL they that take the ſword, ſhall periſh with the ſword:* and *Rev.* 10. 10. *He that killeth with the ſword, MVST BE KILLED WITH THE SWORD*; (no doubt he may be killed by way of neceſſary defence;) then it immediately followes; *here is the patience and faith of the Saints*: that is, Saints will and muſt patiently endure many preſſures and wrongs from Tyrants and oppreſſors without reſiſtance, but if they once come to make warre with them, as the ſeven headed beaſt there did *v.* 7. then both the faith and patience of the Saints themſelves will binde their hands no longer, but give them free liberty in ſuch an extremity (for their owne and the Churches preſervation, in their juſt defence) to ſlay thoſe ſeven headed beaſts that ſhall aſſault them; the very faith of Chriſt then teacheth them no other leſſon but this: *he that leadeth into captivitie ſhall goe into captivitie, and he that killeth with the ſword muſt be killed with the ſword*: and in ſuch a caſe, God ſaith, *Pſal.* 149. 6. 7. 8. 9. *Let a two-edged ſword be in their hands, to execute vengeance upon the heathen, and puniſhment upon the people: to binde their Kings with chaines and their Nobles with fetters of Iron; to execute upon them the judgement written: This honour* (this priviledge in ſuch caſes) HAVE ALL THE SAINTS, *Praiſe ye the Lord*. And very good reaſon is there for it. For as Nature it ſelfe hath inſtructed Lyons Beares, Wolves, Boares, Stagges, Buckes, and moſt other beaſts, not onely to defend themſelves againſt the violence of one another, but even of Men their ſupream Lords, when they aſſault and hunt them to take away their lives, over which God hath given men a lawfull power: much more then may men by natures dictate, defend their perſons, lives againſt the unlawfull violence of their kings or Armies (over which God hath given them no power at all but in a legall way of juſtice for capitall offences when they aſſault or make warre upon them to deſtroy them. Not to trouble you with Hiſtories of Stagges and other beaſts which have killed men that chaſed them, in their owne defence, of which there are infinite examples in the * Roman and Spaniſh Hiſtories, in thoſe Amphithreatricall ſports and ſpectacles wherein men encountred and fought with Lyons, Tygers, Beares, Buls and other ſavage Beaſts; I ſhall onely recite ſome few examples even of Kings themſelves, who have beene ſlaine and devoured by ſuch beaſts as they have chaſed: * *Madan* King of *Britain* (as *Polycronicon, Fa-*

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Pſal. 72. 14. Pſ. 116, 15. * Gen. 9. 6. Mat. 26, 52.

* See *Tertul. & Cyprian de ſpectaculis Onuphrius, Bulengerus, Lypſius*, and others, *De Theatris, Ludis Circenſibus* and *Joannes Mariana de Spectaculis.*

* *Gryſt. part. 4 p. 40. part. 5 f. 42 part. 6. f. 72.*

bian, Grafton and others record) being in his disport of hunting, was slain of the wilde beasts he pursued, when he had reigned 40. yeares: so was his sonne King *Memprus* slaine and destroyed in hunting in the same manner. *Merindus* King of Brittaine, was devoured by a Sea monster which he encountered: and * *Basilius* the 35. Emperour of *Constantinople* hunting a Stag, of an extraordinary greatnesse, and the king to cut off his necke with his sword; the Stagge ran fiercely at him, gored him with his hornes on which he tossed him, bruised his entralls, whereof he dyed some few dayes after, and had beene slaine immediately, on the beasts hornes, had not one there present drawne his sword and cut off his girdle, by which he hung on the hornes, to whom he gave a very ill requitall for this loyall service: other stories of kings slaine by beasts in their owne defence occure in story, and examples of kings slaine by men in and for their preservation, are almost innumerable: that of our king * *Edmond* is observable among others, who as our Historians write being at a feast at *Pulkers* Church on *Saint Augustines* day, espied a theefe named *Leof*, whom he had formerly banished, sitting in the Hall, whereupon he leapt over the Table, assaulted *Leof*, and plucked him by the haire of the head to the ground; who in his owne defence, wounded the king to death with a knife, hurt many of his servants, and at length was himselfe hewen all in peeces. But that of our King * *Richard* the 1. is more remarkeable, who being shot in the arme with a barbed Arrow by one *Peter Basil*, (or *Bertram Gurdon* as others name him) at the siege of *Chaluz* Castle in *Aquitain* which rebelled against him; the Castle being taken, and the king ready to dye of the wound, commanded the person that shot him to be brought into his presence, of whom he demanded, *What hurt he had done him that provoked him to this mischiefe?* To whom he boldly replyed: *Thou hast killed my father and my two Brothers, With thine own hand; and now wouldest have slain me: take what revenge thou wilt; I shall willingly endure what ever torture thou canst inflict upon me, in respect I have slaine thee, who hast done such and so great mischiefe to the world.* The king hearing this his magnanimous answer, released him from his bonds, (though he slew the rest) and not onely forgave him his death, but commanded an hundred shillings to be given him. If then bruites by the very law of Nature have thus defended themselves against kings, who have violently assaulted them, even to the casuall death of the assailants: Why men by the selfesame Law, may not justly defend themselves against the unjust assailing warres of their Princes, and Armies, without Treason or Rebellion, exceeds my shallow understanding to apprehend: and I doubt those very persons who now plead most against it, onely to accomplish their owne pernicious designes, would make no scruple of such a necessary defensive wars and resistances lawfulnesse, were the case but really their own; and those Papists and Cavaliers who now take up armes against the Parliament, the supreamest lawfull power in the Realme, and their owne native Country, without checke of Conscience, would doubtlesse make no bones at all forcibly to resist or fight against the King himselfe, should he but really joyne with the Parliaments Army, against them and their designes; there being never any Souldier or Polititian, but those onely who were truely sanctified and religious, that made any conscience of fighting against, yea murthering of his naturall king, not onely in a lawfull defensive warre, but in a Trayterous and Rebellious manner too, if he might thereby advantage or promote his owne particular interests, as is evident by the counsell and speech of *Davids* souldiers, and King *Saul* himselfe. 1 *Sam.* 24. 4. 5. 6. 7. 18. 19. 21. by the words of *Abishai*, to *David*, 1 *Sam.* 28. 8. 9. 23. 24. by the Coun-

* *Zonaras Annal. Tom. 3. f. 15. Manasseri Compag. l. 4. c. 59. p. 1104.*

* *Mat. West. An 946. p. 946 Malmsb. Hunting. Fab. Grost. Holinsh. Speed*, and others in his life.

* *Hoved. Ant pars posteriora p. 791. Mat. Paris, Mat. Westm. Polyc. Fab. Walsing. Holinsh Graf. Speed, Daniel* in the life of *Rich. 2.*

cell of *Achitophell*, which pleaſed *Abſolon, and all the Elders of Iſrael well*, 2 Sam 17. 1. 2. 3. 4 and the infinite number of Emperours, of Kings, which have beene traytorouſly, and rebelliouſly ſlaine, without any juſt occaſion by their own Souldiers, and that in a meere offenſive, not defenſive way; above halfe the Roman, Grecian, and German Emperours dying of ſuch aſſaſſinations, or poyſonings, very few of them of meere naturall deathes, as the Hiſtories of their lives declare.

Eighthly, It is in a manner agreed by [y] Hiſtorians, Polititians, and Divines, that if a King will deſert the defence and Protection of his people in times of warre and danger, and neither ayde nor protect them againſt their enemies according to his Oath and Duty, they may in ſuch a caſe of extremity, for their owne neceſſary defence and preſervation, deſert him, who deſerteth them, and elect another King, who can and will protect them from utter ruin. Vpon this very ground the [z] *Brittons* of this Nation after many hundred yeares ſubjection to the Roman Emperors, rejected their yoake and government, when they refuſed and neglected to defend them againſt the barbarous *Picts* and others, who invaded them, when they had oft craved their aſſiſtance; electing them other *Patriots*: So the [a] *Spaniards* being deſerted by the Roman Emperors and left as a prey to their enemies, abandoned their government, and elected them Kings of their owne to protect them, which they juſtified to be lawfull for them to doe. And in like manner the Romans and Italians being forſaken of the Emperour *Conſtantine*, when they were invaded by [b] *Aiſtulfus* King of the *Lumbards*; Elected *Charles* the Great for their Emperour, and created a new Empire in the Weſt, diſtinct from that of *Conſtantinople* in the Eaſt, which Biſhop *Bilſon* himſelfe concludes they might lawfully doe, in point of conſcience. So [c] *Childerick* being unfit to governe, and unable to repulſe the enemies of the *French* which invaded his territories; thereupon by the adviſe of Pope *Zachary*, and of a whole Synod and Parliament in *France*, they depoſed *Childericke*, and elected *Pipin* for their King, who was both able and willing to protect them; Vpon this very ground the [d] Emperours *Charles* the third, and *Wenceſlaus* were depoſed, as being unable and unfit to defend and governe the Empire, and others elected Emperors in their ſteeds, Thus * *Mahomet* the blinde, King of *Granado*, was in the yeare 1309. depoſed by his owne Brother, Nobles, and Subjects, who were diſcontented to be governed by a blinde King, who could not lead them to the warres in perſon. And * *Ethodius* the 2d king of *Scotland*, being dull of wit, given to avarice, and nothing meete to governe the Realme; thereupon the Nobles tooke upon them the governmēt, appointing Rulers in every Province, & ſo continued them all his reigne, leaving him nothing but the bare title of a King, (not depriving him thereof, out of the reſpect they gave to the family of *Fergusius*) but yet taking away all his regall power. And not to multiply caſes or examples of this nature: [e] *Andrew Favine* in his Theatre of Honour, out of the Chronicle of *Laureſheim* and *Aimonius* in his 4th Booke of the Hiſtory of *France*, relates a notable reſolution given by the Parliament & Eſtates of *France* in this very point. In the yeare 803. *Lewes the Debonnaire* king of *France* holding his Parliament in *May*, there came thither from ſtrange Provinces two Brethren, kings of *Vuiſes*, who with frank & free good will ſubmitted themſelves to the judgement of the ſaid Parliament, to which of them the kingdome ſhould belong. The elder of theſe two brethren was named *Meligaſtus*, and the yonger *Celeadraeus*, Now albeit the cuſtome of the ſaid kingdome, adjudged the Crowne to the eldeſt, according to the right of *Primogeniture*, allowed and practiſed by the Law of Natu-

[y] See Biſhop *Bilſon*, of Chriſtā ſubjection, &c. part 3. p. 411. to 422. and the Authors there cited.

[z] *Speed. hiſt. l. 6 c. 5 & 7. c. 1. 4. Camb. Brit. p. 107. 108 &c* See *Holinſh. Poly. Graf.*

[a] *Jacobus Valdeſius de Dignitate Regum Regn. Hiſp. c. 18. Franciſcus Tarapha de Regibus Hiſpaniæ, Michael Ritius de Regibus Hiſp. l. 2. Munſt. Coſm. l. 2 c. 20.*

[b] See Biſhop *Bilſons* true difference, &c. p. 3. 411. to 416 and the Appendix here p. 8 9.

[c] *Aventinus Ann. l. 3. The generall hiſt. of France in his life. See the Appendix.*

[d] See *Grinſtons* Imperiall hiſtory in their lives, & and the Appendix.

* The Generall Hiſtory of Spaine. p. 455.

* *Gaſfr. part. 7 p. 85. Buchanon Rer. Scot. l. 4. p. 121.*

[e] Theatre of Honour l. 2. c. 13. p. 182.

Nature, and of later memory, in the person of the last dead King *Limbus*, father to the two contendants; yet notwithstanding in regard that the Subjects by universall consent of the kingdome, had rejected the elder brother FOR HIS COWARDISE AND EVILL GOVERNMENT (*cum secundam ritum ejus gentis commissum sibi Regnum parum digne administraret*) and had given the Crown to the younger brother FOR HIS VALOVR & DISCREETE CARRIAGE; after full hearing of both parties, BY SENTENCE of PARLIAMENT, the Kingdome was adjudged to the younger Brother, (*Statuit ut junior frater delatam sibi à Populo suo pot statem haberet, &c*) and thereupon the eldest did him homage, with oath of Allegiance in the said Parliament, and submitted to this sentence. And upon this very ground in some of our ancient British and Saxons Kings Reignes when the right heire to the Crowne was an infant, unable to defend his kingdome and people against invading enemies, the Crowne hath commonly descended to the Vncle or next heire of full age, who was able to protect them and repulse their enemies, till the right heire accomplished his compleat age, as I have elsewhere manifested. If then a Kingdome by generall consent; may elect a new King to defend and preserve it, in case of invasion and eminent danger of ruine by forraigne enemies, when their present King either cannot, or will not doe his duty in protecting them from their enemies, and exposeth them for a prey to their devastations, as these examples and authorities conclude they may, though I will not positively determine so. Then certainely by equall, semblable and greater reason, subjects may lawfully take up necessary defensive Armes against their Kings, when they shall not onely desert, but actually invade and wage warre against them, destroy and wast them in an open Hostile manner, and handle them as cruelly as the worst of enemies: such a wilfull unnaturall Hostile invasion, being farre worse than any cowardly or bare desertion of the when they are invaded by a forraign enemy. And if Kings in case of sottishnesse or Lunacy may be lawfully deposed from their kingdomes by common consent of their Realmes, when they are altogether unfit or unable to governe, as Bishop *Bilson* asserts, and I have manifested elsewhere: then much more may they be lawfully resisted by force without guilt of Treason or Rebellion, when they wilfully and maliciously, contrary to their oath and duty, cast off their Royall governments, the protection of their subjects, and wage open warre against them, to enslave or ruine them. If a Father shall violently and unjustly assault his sonne, a husband his wife, a master his servant, a Major or other inferior Officer, a Citizen to murther, maime, or ruine them; *They may in such a case by* [g] *the Law of Nature, God, man, resist, repulse them in their owne defence without any crime at all*, as dayly practise experimentally manifests; yea they may sweare the peace against them, and have a Writ [h] *de securitate Pacis* in such cases. Therefore by the selfesame reason they may resist the King and his Army in like cases; there being no more humane nor divine Law against resistance in the one case, than in the other.

Finally, it is the resolution of [i] *John Bodin* and others, who deny the lawfulnesse of Subjects taking up Armes against their Soveraigne Prince, or offering violence to his person, though he become a Tyrant: *That if a Soveraigne Prince or King by lawfull election or succession turne a Tyrant, he may lawfully* (at his Subjects request) *be invaded resisted, condemned or slaine by a forraigne Prince.* For as of all Noble acts, none is more honourable or glorious, then by way of fact to defend the honour, goods, and lives of such as are unjustly oppressed by the power of the more mighty, especially the gate

[f] See Part. neere the end.

[g] See *Summa Rosella Tit. Bellum.*

[h] *Fitz Nat. Brevium f. 80. 81.*

[i] Common-weale l. 2. c. 5. 220. 221.

'of Iuſtice being ſhut againſt them: thus did *Moſes* ſeeing his brother the *Iſraelite* beaten
'and wronged by the *Egyptian*, and no meanes to have redreſſe of his wrongs: So it
'is a moſt faire and magnificall thing for a Prince to take up Armes to releive a whole
'Nation and people, unjuſtly oppreſſed by the cruelty of a Tyrant: as did the great
'*Hercules* who travelling over a great part of the world with wonderfull power and
'valour deſtroyed many moſt horrible monſters, that is to ſay, Tyrants; and ſo delive-
'red people, for which he was numbred among the gods, his poſterity for many
'worlds of yeares after, holding moſt great Kingdomes. And other imitators of his
'vertue as *Dio*, *Timoilion*, *Aratus*, *Harmodius*, *Ariſtogiton*, with other ſuch honoura-
'ble Princes, bearing Titles of chaſtiſers, and correctors of Tyrants. And for that onely
'cauſe *Tamerlain* Emperour of the *Tartars*, denounced warre unto * *Bajazet* King of
'the *Turkes*, who then beſieged *Conſtantinople*, ſaying, *That he was comming to chaſtiſe*
his Tyrannie, and to deliver the afflicted people; and vanquiſhing him in battle, routed
'his Army, and taking the Tyrant priſoner, he kept him in chains in an Iron Cage
'till he dyed. Neither in this caſe is it materiall that ſuch a vertuous Prince being a
'ſtranger, proceede againſt a Tyrant by open force, or fierceneſſe, or elſe by way of
'juſtice. True it is that a valient and worthy Prince, having the Tyrant in his power,
'ſhall gaine more honour by bringing him unto his tryall, to chaſtiſe him as a murtherer
'a manqueller, and a robber; rather than to uſe the Law of Armes againſt him. Where-
'fore let us reſolve on this, that it is lawfull for any ſtranger (Prince) to kill a Tyrant,
'that is to ſay, a man of all men infamed, and notorious for the oppreſſion, murder,
'and ſlaughter of his ſubjects and people. And in this ſort, our * Queene *Elizabeth*
ayded the *Low-Countries* againſt the Tyrannie and oppreſſions of the King of *Spaine*:
and the King of *Sweden* of late yeares the Princes of *Germany* againſt the Tyranny and
uſurpations of the *Emperor*, upon their ſollicitation. If then it be thus lawfull for
Subjects to call in forraigne Princes to releeve them againſt the Tyrannie and oppreſ-
ſions of their kings (as the Barons in * King *Johns* time prayed in ayde from *Philip*
and *Lewis* of *France* againſt his tyrannie) and thoſe Princes in ſuch caſes, may juſtly
kill, depoſe, or judicially condemne theſe oppreſſing Kings and put them to death.
I conceive theſe whole kingdomes and Parliaments may with farre better reaſon,
leſſe danger, and greater ſafety to themſelvs, their Kings and Realmes take up defenſive
Armes of their owne to repulſe their violence. For if they may lawfully helpe them-
ſelves and vindicate their Liberties from their Kings encroachments by the aſſiſtance
and Armes of forraigne Princes who have no relation to them, nor particular intereſt
in the differences betweene their kings and them, which can hardly be effected with-
out ſubjecting themſelves to a forraigne power; the death or depoſition of the oppreſ-
ſing King: much more may they defend and releeve themſelves againſt him by their
owne domeſticke Forces, if they be able, by generall conſent of the Realme; becauſe
they have a particular intereſt and ingagement to defend their owne perſons, eſtates
liberties, which forraigners want; and by ſuch domeſticke Forces may prevent a for-
raigne ſubjection, preſerve the life of the oppreſſing Prince, and ſucceſſion of the
Crowne in the hereditary line; which * *forraigne Armies moſt commonly endanger*.
And certainely it is all one in point of Reaſon, State, Law, Conſcience, for Subjects
to relieve themſelves, and make a defenſive warre againſt their Soveraigne by for-
raigne Princes Armes, as by their owne: and if the firſt be juſt and lawfull, as all men
generally grant without contradiction; and *Bracton* l.3.c.16. I ſee no colour but

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* See *Knols* Turkiſh Hiſt. in his life.

* *Speede* Hiſt. p.1193.1194 *The Hiſtory of the Netherlands*, and the *Swediſh* Intelligencer.

* *Mat. Par. Mat. Weſt. Hoved. Speed, Holiſh. Fab. Graft. Daniel* in his life.

* See *Knols Turkiſh Hiſt.* of the calling in the *Turke* into *Græcia* and *Cambden* & *Speed* of the *Brittaines* calling in the *Saxons* which proved their ruin and conqueſt.

the latter must bee just and lawfull too, yea then the first rather, because lesse dangerous, lesse inconvenient to King and Kingdome.

From Reasons, I shall next proceed to punctuall Authorities. Not to mention our ancient [h] *Brittons* taking up of armes by joint consent, against their oppressing, tyrannizing Kings *Archigallo*, *Emerian*, and *Vortigern*, whom they both expelled and deposed, for their tyranny and mis-government: nor our *Saxons* raising defensive Forces against King *Sigebert*, *Osred*, *Ethelred*, *Beornard*, *Ceolwulfe*, and *Edwyn*, who were forcibly expelled, and deprived by their Subjects for their bloody cruelties and oppressions; which actions the whole Kingdome then, and those Historians who recorded them since, *reputed just and honourable*, and no *Treason nor Rebellion in Law or Conscience*, being for the Kingdomes necessary preservation, and the peoples just defence; which Histories I have elsewhere more largely related. Nor yet to insist long on the fore-mentioned Barons warre, against king *Iohn*, and *Henry* the 3d. for regaining, establishing, preserving *Magna Charta*, and other Liberties of the Realme, which our Kings had almost utterly deprived them off; I shall onely give you some few briefe observations touching these warres, to cleare them from those blacke aspersions of *Rebellion*, *Treason*, and the like, which some late Historians (especially *John Speed*) to flatter those Kings to whom they Dedicated their Histories, have cast upon them, contrary to the judgement of our ancienter Chroniclers, and *Matthew Paris*; who generally repute them lawfull and honourable.

[h] See *Matth. Westm. Huntingdon, Galfridus Monumetensis, Florentius Wigornensis, Polychronicon, Fabian, Caxton, Grafton, Holinshed, Speed*, and others, in their severall lives.

First then consider, what opinion the Prelates, Barons, and Kingdome in generall, had of these Warres at first, [i] *Anno* 1414. in a Parliament held at *Pauls* the 16. yeare of King *Iohns* raigne, *Steven Langton* Archbishop of *Canterbury*, produced a Charter of King *Henry the First*, whereby he *granted the Ancient Liberties of the Kingdome of England (which had by his Predecessors beene oppressed with unjust exactions, according to the Lawes of King* Edward, *with those emendations, which his Father, by the counsell of his Barons, did ratifie*: which Charter being read before the Barons, they much rejoyced; *and swore in the presence of the Archbishop,*; that *for these Liberties they would, if need required, spend their blood:* which being openly done in Parliament, they would never have taken such a publike solemne Oath, had they deemed a Warre against the King, for recovery, or defence of these their Liberties unlawfull, and no lesse then Treason and Rebellion in point of Law or Conscience. After this the Barons assembling at Saint *Edmondsbury*, conferred about the said Charter, and swore upon the high Altar, *That if King* Iohn *refused to confirme and restore unto them those Liberties (the Rights of the Kingdome) they would make Warre upon him, and withdraw themselves from his Allegiance, untill he had ratified them all with his Charter under his great Seale.* And further agreed, after Christmas to Petition him for the same, and in the meane time to provide themselves of Horse and Furniture to be ready, if the King should start from his Oath made at *Winchester*, at the time of his absolution, for confirmation of these Liberties, and compell him to satisfie their demand. After Christmas they repaire in a Military manner to the King, lying in the new Temple, urging their desires with great vehemencie: the King seeing their resolution and inclination to warre, made answer, *That for the matter they required, he would take consideration till after Easter next*, In the meane time, he tooke up on him the Crosse, rather through feare, then devotion, supposing himselfe to bee

[i] *Matth. Paris Hist. Angl.* p. 234 to 240. *Holinshed, Grafton, Speed, Fabian* and *Daniel*, p. 140 141, 142. 143.

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more ſafe under that Protection : And to ſhew his deſperate malice and wilfulneſſe (who rather then not to have an abſolute domination over his people, to doe what he liſted, would be any thing himſelfe under any other that would but ſupport him in his violences) he ſent an Embaſſage (the moſt baſe and impious that ever yet was ſent by any free and Chriſtian Prince) unto *Miramumalim* the Moore, intituled the great King of *Affrica*, *Morocco*, and *Spaine*; wherein he offered to render unto him his Kingdome, and to hold the ſame by tribute from him as his Soveraigne Lord; to forgoe the *Chriſtian Faith*, as vaine, and to receive that of *Mahomet*, imploying *Thomas Hardington* and *Ralph Fitz-Nicholas*, Knights, and *Robert of London* Clerke, Commiſſioners in this negotiation; whoſe manner of acceſſe to this great King, with the delivery of their Meſſage, and King *Johns* Charter to that effect, are at large recited in *Mathew Paris*, who heard the whole relation from *Robert* one of the Commiſſioners, *Miramumalim* having heard at large their Meſſage, and the Deſcription of the King and Kingdome, (governed by an annointed and Crowned King, knowne of old to be free and ingenuous; *ad nullius, præterquam Dei ſpectans dominationem*) with the nature and diſpoſition of the people, ſo much diſdained the baſeneſſe and impiety of the Offerer, that fetching a deepe ſigh from his heart, he anſwered, I have never read nor heard, of any King poſſeſſing ſo proſperous a Kingdome, ſubject and obedient to him, who would thus willingly ruine his Principality, as of free to make it tributary, of his owne to make it anothers, of happy to make it miſerable, and to ſubmit himſelf to anothers pleaſure, as one conquered without a wound. But I have heard and read of many, who with effuſion and loſſe of much blood (which was laudable) have procured liberty to themſelves; *mo do autem audio, quod Dominus veſter miſer, deſes & imbellis, qui nullo nullior eſt, de libero ſervus fieri deſiderat, qui omnium mortalium miſerrimus eſt.* After which he ſaid *That the King was unworthy of his Confederacie*; and looking on the two Knights with a ſterne countenance, *he commanded them to depart inſtantly out of his preſence and to ſee his face no more*; whereupon they departing with ſhame; hee charged *Robert* the Clerke, *to informe him truely what manner of perſon King* Iohn *was*: who replied, That he was rather a Tyrant then a King; rather a Subverter then a Governour; a Subverter of his owne Subjects, and a Foſterer of Strangers; a Lyon to his owne Subjects, a Lambe to Aliens and Rebels; who by his ſloathfulneſſe had loſt the Dutchy of *Normandy*, and many other Lands, and moreover thirſted to loſe and deſtroy the Kingdome of *England*: An unſatiable Extortioner of money; an invader and deſtroyer of the poſſeſſions of his naturall people, &c. When *Miramumalim* heard this, he *not onely deſpiſed, as at firſt, but deteſted and accurſed him and ſaid*: Why doe the miſerable *Engliſh* permit ſuch a one to raigne and domineer over them? Truely, they are effeminate and ſlaviſh: To which *Robert* anſwered: the *Engliſh* are the moſt patient of all men, untill they are offended and dannified beyond meaſure. But now they are angry, like a Lion or Elephant, when he perceives himſelfe hurt or bloody; and though late, they purpoſe and endeavour to ſhake the yoake of the Oppreſſor from their necks which lie under it: Whereupon *he reprehended the overmuch patience and fearefulneſſe of the Engliſh*; and diſmiſſed theſe Meſſengers; who returning, and relating his Anſwer to King *Iohn*, he was exceeding ſorrowfull, and in much bitterneſſe of Spirit, that he was thus contemned and diſapointed of his purpoſe. Yet perſiſting in his pre-conceived wicked deſigne

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ruine his Kingdome and people, and hating all the Nobility and Gentry of *England*, with a viperous Venom, he sets upon another course; and knowing * Pope *Innocent to be the most ambitious, proud, and covetous of all men, who by gifts and promises would be Wrought upon, to act any wickednesse*: Thereupon he hastily dispatcheth messengers to him with great summes of Money, and a re-assurance of his tributary Subjection, (which shortly after he confirmed by a new Oath and Charter,) to procure him to Excommunicate the *Archbishop of Canterbury*, and the Barons, whom he had formerly favoured; which things he greedily desired, *that he might wrecke his malice on them by Disinheriting, Imprisoning, and Spoiling them being Excommunicated*: Which things when he had wickedly plotted, he more wickedly executed afterwards. In the meane time, the Barons foreseeing that nothing was to be obtained but by strong hand, assemble an Army at *Stamford*, wherein were said to be *two thousand Knights*, besides Esquires, and marched from thence towards *Oxford*, where the King expected their comming to answer their demands. And being come to *Brackley* with their Army, the King sends the *Earle of Pembroke Mariscall*, and the *Archbishop of Canterbury*, with others, to demand of them, *what were those Lawes and Liberties they required?* to whom they shewed a Schedule of them, which the Commissioners delivered to the King: who having heard them read, in great indignation asked; *Why the Barons did not likewise demand the Kingdome? and swore he would never grant those Articles, whereby himselfe should be made a Servant.* So harsh a thing is it to a power, that is once gotten out into the wide libertie of his will, to heare againe of any reducing within his Circle. Vpon this answer, the Barons *resolve to seize the Kings Castles*; constitute *Robert Fitz-walter* their Generall, entituling him, *Mariscall of the ARMY of GOD, and of HOLY CHVRCH*: A Title they would never have given their Generall, or Army, had they deemed this Warre unlawfull in Law or Conscience. After which they tooke divers of the Kings Castles, and are admitted into *London*; where their number daily increasing, they make this Protestation; *Never to give over the prosecution of their desire, till they had constrained the King (whom they held perjured) to grant them their Rights.* Which questionlesse, they would not have done, had they not beleeved this Warre to be just and lawfull. *King* John *seeing himselfe in a manner generally forsaken of all his people, and Nobles, having scarce 7. Knights faithfull to him* (another strong argument, that the people and Kingdome generally apprehended, this taking up armes against the King to regaine, to preserve their hereditary Rights and Liberties, to be lawfull) counterfeits the Seales of the Bishops, and writes in their Names to all Nations, *That the English were all Apostates, and whosoever would come to invade them, hee, by the Popes consent, would conferre upon them all their Lands and Possessions.* But this device working no effect, in regard they gave no credit to it, and found it apparantly false; the King seeing himselfe deserted of all, and that those of the Barons part were innumerable, (*cum tota Angliæ Nobilitas in unum collecta, quasi sub numero non cadebat*, writes *Mathew Paris*, another argument of the justice of this cause and warre, in their beliefes and consciences; at last condescended to grant and confirme their Liberties, which he did at *Running-Meade*, in such sort as I have formerly related. And though the Pope afterwards for his owne private ends and interest, (bribed by King *John*, who resigned his Kingdome to him, and became his Vassall, without his peoples consent, which resignation was judged voide,) excommunicated

* A true Character of a Pope.

the Barons withall their aſſiſtance; *Qui Iohannem illuſtrem Regem Anglorum Cruce ſignatum, ET VASALLVM ROMANÆ ECCLESIÆ* (an honourable Title indeed for a King) *perſequuntur, molientes ei Regnum auferre* (which this Pope himſelfe did but few yeares before, giving his Crown and Kingdome it ſelfe to King *Phillip of France*, which to ſave, he ſordidly reſigned up to the Pope) *quod ad Romanam Eccleſiam dignoſcitur pertinere.* Yet this Excommunication thus procured by bribery, proceeding not out of Conſcience to preſerve the Kings due Rights, but ſelfe-reſpects to ſupport the Popes uſurped intereſt and Title to the Realme; and being a wicked plot of the King, more wickedly executed by the Pope, (who as *Matthew Paris* writes, was *AD OMNIA SCELERA pro pramys datis vel promiſſis cereus & proclivis*) and the 'Londoners, Barons, with 'divers Prelates then contemning it, as pronounced upon falſe ſuggeſtions, and eſpeci-'ally for this cauſe, that the ordering of temporall affaires belonged not to the Pope, *Cum Petro Apoſtolo & ejus Succeſſoribus non niſi Eccleſiaſticarum diſpoſitio rirum a Domino ſit collata poteſtas.* And uſing likewiſe theſe memorable Speeches in thoſe blind daies againſt the Pope and his uſurped Supremacy, with liberty. *Vt quid ad nos ſe extendit Romanorum inſatiata cupiditas? Quid Epiſcopis Apoſtolicis & Militis noſtra? Ecce ſucceſſores Conſtantini & non Petri, non imitantur Petrum in meritis vel operibus; nec aſſimulandi ſunt in Poteſtate. Proh pudor, marcidi ribaldi, qui de armis vel liberalitate minime norunt, jam toti mundo propter excommunicationes ſuas volunt dominari; ignobiles uſurarij & Simoniales. O quantum diſſimules Petro qui ſibi Petri uſurpant partem? &c.* I conceive this Excommunication rather juſtifies then diſproves the lawfulneſſe of this their taking up of armes, and the warre inſuing it being but for their owne juſt defence, when the King afterwards with fire ſword, and bloody barbarous Forraigne Forces waſted his Realme in a moſt inhumane, tyrannicall maner, *Factus de Rege Tyrannus; imo in beſtialem prorumpens feritatem, &c.* which neceſſitated the Barons for their own preſervation and the Kingdom (devoted by this unnaturall Prince to Vaſſallage and utter deſolation) to elect *Lewis* of *France* for their King: Who, together with the Peeres and Eſtates of *France*, aſſembled at *Lions* concerning this Election; *reſolved it to be juſt and lawfull, and the Barons Defenſive Warres againſt, and rejection of King* Iohn *for his Tyranny and oppreſſions, to be juſt and honourable, ſince they did but flee to their extraordinary remedies, and ſeeke for juſtice abroad, when they were denied it by him that ſhould give it them in an ordinary way at home, chooſing a King, in place of Tyrant*, as[m] *Matthew Paris*, with the[n] *generall Hiſtory of France* (written by *Iohn de Serres*, and Engliſhed by *Edward Grimſton*) more largely manifeſt.

Secondly, the Lawfulneſſe and juſtneſſe of the Barons Warres in Defence of *Magna Charta*, with other their Hereditary Rights and Liberties, appeares moſt evidently, by the reſolution of all thoſe Parliaments ſummoned by King *Henry* the 3d. *Edward* the 1°. 2. 3. *Richard* the 2d. and other our ſucceeding Kings; which have many times, even by[o] *force of Armes*, or *Menaces*; and ſometimes by faire termes cauſed theſe Kings by new Acts of Parliament to ratifie *Magna Charta*, the *Charter of the Foreſt*, with other Fundamentall Liberties, thus forcibly extorted from King *Iohn* at firſt; *and conſtrained them to confirme them with their Oathes, and ſolemne publicke*[p] *Excommunications, to be publiſhed by the Biſhops in their Dioceſſe twice every yeare*: oft ſolemnly vowing, and proteſting, both in and out of Parliament, *to*

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[l] Pag. 235. 267. 268.

[m] Hiſt. Angl. pag. 270. 271

[n] Pag. 121. 122.

[o] See part 1. p. 19. 20.

[p] Confirm. Chartarum. 25. E. 1. c. 4.

end these Lawes and Liberties, with their estates, armes, lives, blood; which their an-estors had purchased with their blood; as I have manifested in the two first parts of this Discourse: All which they would no doubt have forborne, had they deemed it high Treason or Rebellion in point of Law, to take up armes against their Kings in defence r these Lawes and Privileges; neither would our Kings and Parliaments in times of Peace, have so frequently confirmed these Lawes and Immunities, as just and necessa-y for the peoples welfare, had they reputed their former purchases and confirmati-ns by warre and armes, no lesse then Treason, or Rebellion. And if it were neither Treason nor Rebellion in the judgements of our Ancestors and those Parliaments which procured, and ratified *Magna Charta*, to take up armes in defence thereof; much lesse can it be Treason or Rebellion in the Parliament and Subjects now (by Votes, by Ordinances of both Houses) with force of armes to preserve, not only these heir hereditarie Charters, Lawes, Priviledges, but their very Lives, Estates; yea, the rivileges and being of Parliaments themselves, which are now invaded, endangered.

What opinion the world had of the lawfulnesse of most of the Barons Warres in King *Henry* the 3d. his Raigne, against this troublesome perfidious King, in defence f their Lawes, Liberties, Estates, appeares first, by the Dialogue betweene *Agnel-us*, a Frier minorite, one of King *Henry* his Counsell, (purposely sent to the Earle *Marshall*, then in armes against the King) and this Martiall *Earle*, in the Abbey of *Morgan*. *Anno* 1233. I will first relate the true state of that Warre, and then their Dialogue concerning it: ¶ King *Henry* by the ill counsell of *Peter* Bishop of *Win-hester*, removed all his English Officers, Counsellors, and Servants from his Court, nd put *Poictovines*, and Forraigners in their places, being ruled wholly by them; ithall he puts the English Garisons out of all his Castles, and substitutes Forraigners them, which dayly arived both with Horse and armes in great multitudes, and much ppressed the people, calling them Traitors; so that the power and wealth of the alme was wholly under their Command. The Earle Marshall seeing the Noble d Ignoble thus oppressed, and the rights of the Kingdome like utterly to be lost; pro-oked with a zeale of Iustice, associating to himselfe other Noble men, goes boldly to e King, reproves him in the hearing of many, 'For calling in those *Poictovines*, by vill Counsell, to the oppression of the Kingdome, and of his naturall Subjects, nd likewise of Lawes and Liberties; *Humbly beseeching him*, hastily to correct these excesses, which threatned the imminent subversion both of His Crowne and King-dome, which if he refused to doe, he and the other Nobles of the Realme, would withdraw themselves from his Counsell, as long as he harboured those Strangers. To hich *Peter* of *Winchester* replyed: *That the King might lawfully call in what stran-rs he would, for the Defence of his Kingdome and Crowne, and likewise so many, and ch, as might compell his proud and rebellious Subjects to due Obedience.* Where-on the Earle Marshall and other Nobles, departing discontented from the Court, hen they could get no other answer, promised firmely one to another; *That for is cause which concerned them all, they would manfully fight, even to the separation of ule and Body.* After which, they seeing more Strangers arrive with Horse and mes every day, sent word to the King; *That hee should foorthwith remove Bi-op* Peter, *and all his Strangers from his Court, which if he refused, they all would* Y THE COMMON CONSENT OF THE WHOLE REALM *ive him, with his wicked Counsellours, out of the Realme, and consult of chusing them*

¶ *Matth. Paris Hist.* p. 371 to 385. *Daniel*, p. 153. 154. See *Holinsh. Graft. Speed, Matth. West. Anno* 1233.

a new King. After theſe, and ſome other like paſſages, the King rayſing an Army, beſiegeth one of the Earles Caſtles; and not being able to winne it, and aſhamed to raiſe his Seige without gaining it, he ſent certaine Biſhops to the Earle, and requeſted him; that ſince he had beſieged his Caſtle, and hee could not with Honour depart without winning it, which he could not doe by force, that the Earle to ſave his Honour would cauſe it to be ſurrended to him, upon this condition, *That hee would reſtore it certainely to him within 15. dayes, and that by adviſe of the Biſhops he would amend all things amiſſe in his Kingdome*; for performance of which the Biſhops became his Pledges, and the King appointed a meeting at *Weſtminſter*, on a ſet day betweene Him and the Lords: whereupon the Earle ſurrendred the Caſtle to the King, upon Oath made by the Biſhops that it ſhould be reſtored at the day. But the King refuſing to deliver the Earle the Caſtle, according to promiſe, and threatning to ſubdue his other Caſtles; the Earle hereupon raiſeth his Forces, winnes his Caſtle againe, routs divers of the Kings Forraigne Forces, at *Gorſewood*, *Monmouth*, and other places; and invaded the lands of his Enemies. Vpon this occaſion, Frier *Agnellus* (or *Lambe*) acquaints the Earle, what the King, together with his Counſell and Court, thought of his proceedings; to wit, that the King ſaid, he had proceeded over traiterouſly, and unjuſtly againſt him, yet he was willing to receive him into favour, if he would wholly ſubmit himſelfe to his mercy; and that others held it not juſt, ſafe, and profitable for him to doe it; becauſe he had done wrong to the King, in that before the King had invaded his Lands or Perſon, he invaded and deſtroyed the Kings Lands, and ſlew his men; and if he ſhould ſay, he did this in defence of his body and inheritance; they anſwered, no, becauſe there was never any plot againſt either of them; and that were it true, yet he ought not thus to breake forth againſt the King his Lord, untill hee had certaine knowledge, that the King had ſuch intenſions againſt him: *ET EX TVNC LICERET TALIA ATTEMPTARE*; and from thenceforth he might lawfully attempt ſuch things (by the Courtiers and Friers owne Confeſſions:) Vpon which the Marſhiall ſaid to Frier *Lambe*: To the firſt they ſay, that I ought to ſubmit my ſelfe, becauſe I have invaded the King: it is not true, becauſe the King himſelfe, (though I have beene ever ready to ſtand to the Law and judgement of my Peeres in his Court, and have oft times requeſted it by many meſſengers betweene us, which he alwaies denied to grant) violently entred my Land, and invaded it againſt all juſtice: whom hoping in humility to pleaſe, I freely entred into a forme of peace with him, which was very prejudiciall to me: wherein he granted, that if on his part all things were not punctually performed toward me, I ſhould be in my priſtine ſtate before that peace concluded; namely, that I ſhould be without this homage, and abſolved from my allegiance to him, as I was at firſt by the Biſhop of Saint *Davids*; Seeing then he hath violated all the Articles of the Peace, IT WAS LAWFVLL FOR ME, According to my agreement, to recover what was mine owne; and to debilitate his power by all meanes; eſpecially ſeeing he endeavoured my deſtruction, diſinheritance, and ſeizing of my Body, of which I have certaine intelligence, and am able to prove it if neede be. And which is more, after the 15. daies truce, before I entred *Wales*, or made any defence, he deprived me of the Office of Marſhall without judgement, which belongs to me, and I have enjoyed by Inheritance, neither would he by any meanes reſtore mee to it, though required. Whence I have plain

plainely learned, that he will keepe no peace with me, seeing since the Peace hee handles me worse then before. *Whereby I ceased to bee his Subject, and was absolved from his homage by him. Wherefore it was, and is lawfull for me to defend my selfe, and to withstand the malice of his Counsellors by all meanes.* And whereas the Kings Counsellors say, it is profitable for me to submit to the Kings mercy, because he is more rich and powerfull then I am. It is true, the King is richer and more potent then I, but yet he is not more powerfull then God, who is Iustice it selfe, in whom I trust, in the confirmation and prosecution of my right, and of the Kingdomes. And whereas they say, the King can bring in Strangers of his kinred, who are neither *Scots*, nor *French*, nor *Welsh*, who shall make all his foes his Foot-stoole, and come in such multitudes, as they shall cover the face of the earth, and that he can raise seven men to my one: I neither trust in Strangers, nor desire their confederacie, nor will I invoke their aide, *Unlesse*, which God forbid, *inopinata & immutabili vero compulsus necessitate*; I shall be compelled by a sudden and immutable necessity; and I beleeve by his Counsells ill advise he will quickly bring in such multitudes of Strangers, that he will not be able to free the Kingdome of them againe; for I have learned from credible men, that the Bishop of *Winchester* is bound to the Emperour, that he will make the Kingdome of *England* subject to him; which God in his providence avert. And whereas they say, That I may confide in the King and his Counsell, because the King is mercifull, credible, &c. It may well be that the King is mercifull; but he is seduced be the Counsell of those, by whom we feele our selves much hurt; and he is Noble and credible (whom God long preserve so) as much as in him lies; but as for his Counsell, I say, that no one promise made to me, was ever yet kept, and they have violated many corporall Oathes made to me, and the Oathes they tooke for observing *Magna Charta*, for which they remaine excommunicate and perjured. Yea, they are perjured concerning the faithfull Counsell which they have sworne to give to our Lord the King, when as they have wilfully given him the Counsell of *Achitophel*, against justice; and corrupted the just Lawes they have sworne to keepe, and introduced unusuall ones: for which, and for many other things, for which neither God nor man ought to trust them, or their complices, are they not every one excommunicated?

Rumor de veteri faciet ventura timeri:
Cras poterunt fieri turpia sicut heri.
Felix quem faciunt aliena pericula cautum.

Whereas the said Counsellors of the King say, that I invaded the Kings body at *Corsmund* Castle, before the King had entred my Land; and so I did injurie to the King, for which I ought to implore his mercie, least others should take example thence to raise up Armes against the King. I answer, that I was not there in person; and if any of my Family were there by chance, they invaded onely the Family of the King, not the person of the King: which yet if they had done, it were no wonder, seeing the king came with his Army into my Land, that he might invade me, and oppresse me by all the meanes he could, which may appeare to all by the tenor of his Letters, by which hee made a generall assembly throughout *England* against my Army. And since the premises objected against mee are false,

and it is true, that the King hath treated me worſe ſince the time I expected h
mercy, then any time before, and doth yet uſe the ſame Counſell as then; an
ſince he endeavours preciſely to follow their Counſels in all things, by who
adviſe I ſuffer all the premiſed grievances; I ought not to proſtitute my ſelfe t
his mercy. Neither would this be for the Kings honour, that I ſhould conſent un
to his will, which is not grounded upon reaſon. Yea, I ſhould doe an injury t
him, and to Iuſtice, which he ought to uſe towards his Subjects, and to maintain
And I ſhould give an ill example to all, by deſerting Iuſtice, and the proſecution
right, for an erronious will againſt all Iuſtice, and the injury of the Subjects: For b
this it would appeare, that we loved our worldly poſſeſſions, more then Iuſtice
ſelfe. *And* whereas the Kings Counſellours object, that wee have combined wi
the Kings capitall enemies, namely, the *French*, *Scots*, *Welſh*, out of hatred and dam
mage to king and kingdome: That of the *French* is altogether falſe, and that of th
Scots and *Welſh* too; excepting the king of *Scots*, and *Leoline* Prince of *North*
wales; who were not the kings enemies, but faithfull friends, untill by injuries off
red them by the King and his Counſell, they were by coertion againſt their wills, al
enated from their fidelitie, as I am. And for this cauſe I am confederated with ther
that we may the better being united, then ſeparated, regaine and defend our rights,
which we are unjuſtly deprived, and in a great part ſpoiled. Whereas the Kin
Counſell propoſe, that I ought not to confide in my Confederates, becauſe t
King, without any great hurt to his Land, can eaſily ſeparate them from my frien
ſhip: Of this I make no great doubt, but by this the iniquity of his Counſelle
doth moſt of all appeare: that in ſome ſort they would cauſe the King to ſuſtai
loſſe, by thoſe whom he ſpecially calls, capitall enemies, to injure mee who ha
alwaies beene his faithfull Subject, whiles I remained with him, and yet wou
be ſo, if he would reſtore to me and my friends our right. Whereas the ſaid Cou
ſellors ſay, that the Pope and Church of *Rome*, doe ſpecially love the King and kin
dome, and will Excommunicate all his adverſaries, which thing is even at t
dores, becauſe they have already ſent for a Legate: It pleaſeth mee well, ſaid t
Marſhall; becauſe the more they love the King and kingdome, by ſo much t
more will they deſire that the King ſhould treat his Realme and Subjects, acc
ding to *Iuſtice*: And I am well pleaſed they ſhould excommunicate the adver
ries of the Kingdome, becauſe they are thoſe who give Counſell againſt Iuſti
whom workes will manifeſt; becauſe Iuſtice and Peace have kiſſed each other; a
becauſe of this, where Iuſtice is corrupted, Peace is likewiſe violated. Alſo I
pleaſed that a Legate is comming, becauſe the more diſcreet men ſhall heare our
ſtice, by ſo much the more vilely ſhall the adverſaries of Iuſtice be confounded.
which notable diſcourſe we ſee the lawfullneſſe of a neceſſary defenſive Wa
yeelded and *Iuſtified* both by the King, his Counſell, and the Earle Marſhall, as v
againſt the King himſelfe, if he invade his Subjects firſt, as any of his Forces w
aſſiſt him. After which the Marſhall flew many of his Enemies by an Ambuſca
while they thought to ſurpriſe him, and waſted and ſpoiled their goods, hou
lands; obſerving this generall laudable rule which they made, to doe no hurt, no
to any one, but to the Kings evill Counſellors by whom they were baniſhed, wh
goods, houſes, woods, Orchards, they ſpoiled, burnt, and rooted up. The K
remaining at *Gloceſter*, heard of theſe proceedings of the Marſhall, but his forces

g too weake, he durst not encounter him, but retired to *Winchester* with Bishop
ester, confounded with over much shame, leaving that Country to be wasted by his
ivet saries; where innumerable carcases of those there slaine lay naked and unburied in
he wayes, being food to the beasts and birds of prey: a sad spectacle to passengers,
which so corrupted the ayre, that it infected and killed many who were healthy. Yet
e Kings heart was so hardned, by the wicked councell he followed, against the Mar-
all, that the Bishops admonishing him to make peace with him, WHO FOVGHT
OR IVSTISE: he answered, that he would never make peace with him, unlesse
mming with an halter about his necke and acknowledging himselfe to be a
raytor, he would implore his mercy. The Marshall both in *England* and *Ireland*;
ofessed that he was no Traytor; that his warre being but defensive, was just; *immu-*
buliter affirmans, quod licuit sibi de jure quod suum erat repetere, & posse Regis &
nsiliorum suorum, modis omnibus quibus poterat, infirmare.

[c] *William Rishanger* in his continuation of *Matthew Paris*, speaking of the death of *Simon Monfort* Earle of *Leycester*, slaine in the Battle of *Evesham*, the greatest Pillar of the Barrons warres; useth this expression. *Thus this magnificent Earle Symon, endued his labors, who not onely bestowed his estate but his person also, for releefe of the oppression of the poore; for the asserting of Justice, and the right of the Realme*: he was commendably skilfull in learning, a dayly frequenter of divine Offices, constant of word, severe in countenance, most confiding in the prayers of Religious persons, ever wayes very respectfull to Ecclesiasticall persons. He earnestly adheared to *Robert Grosthead* Bishop of *Lincolne*, and committed his children to his education. By his advise he handled difficult things, attempted doubtfull things, concluded things begun, specially such things whereby he thought he might gaine desert. Which Bishop is said *to have enjoyned him, as he would obtaine remission of his sinnes, that he should undertake this cause for which he contended even unto death, affirming, that the peace of the Church of England could never be established, but by the materiall sword; and constantly averring*; THAT ALL WHO DIED FOR IT WERE CROWNED WITH MARTYRDOME. Some say that this Bishop on a time, laying his hand on the head of the Earles eldest sonne, said unto him. *O most deare sonne, thou and thy father shall both dye on one day, and with one hand of death*; *YET FOR IVSTICE AND TRUTH.* Fame reports that *Symon* after his death grew famous by many miracles, which for feare of the King came not in publicke. [c] Thus this Historian, thus *Robert Grosthead* the most devout and learned Bishop of that age, (who most of any opposed the Popes Vsurpations and exactions) determine of the justice and lawfulnesse of the Barons Warres; *Walter* Bishop of *Worcester* concurring in the same opinion with *Grosthead*. The same [c] author *Rishanger* records; that the *Earle of Glocester*, a [c] Page 970. great stickler in these warres against the king, with whom at last he accorded; signified to the *King by his Letters Patents under his seale, that he would never beare Armes against the King his Lord, nor against his Sonne Prince Edward, NISI DEFENDO; Wholely in his Defence*: which the King and Prince accepting of, clearely proves; that defensive *Armes* against King or Prince were in that age generally reputed Lawfull, by King, Prince, Prelates, Nobles, People. I may likewise adde to this what I read in [c] *Matthew Westminster*, that *Richard* Bishop of *Chichester* the day before the battle of *Lewis* against King *Henry* and his sonne (who were taken prisoners in the battle by the Barons and 20000. of their Souldiers slaine;) *absolved all that went to fight against* [c] An. 1265. p. 336.

[c] Page 966. 967. Daniel, p. 178.

againſt the King their Lord from all their ſinnes. Such confidence had he of the goodneſſe of the cauſe and juſtneſſe of the warre.

In one word, the [n] oath of aſſociation preſcribed by the Barons to the King of *Romans*, brother to King *Henry* the third, in the 43. yeare of his Raigne; *Heare all men, that I* Richard *Earle of Cornewall, do here ſweare upon the holy Evangeliſts, that I ſhall be faithfull, and diligent to reforme with you the Kingdome of England, hitherto by the councell of wicked perſons overmuch diſordered: and be an effectuall Coadjutor TO EXPELL THE REBELLS, and diſturbers of the ſame. And this Oath I will inviolably obſerve, under paine of loſing all the lands I have in England: So help me God.* Which Oath all the Barrons and their aſſociates tooke, (by vertue whereof they tooke up armes againſt the Kings ill Councellors, and himſelfe when he joined with them,) ſufficiently demonſtrates their publicke opinions and judgements of the lawfulneſſe, the juſtneſſe of their warres; and of all other neceſſarie defenſive armes, taken up by the Kingdomes generall aſſent for preſervation of its Lawes, Liberties, and ſuppreſſion of thoſe Rebels, and ill Councellors who fight againſt, or labour to ſubvert them by their policies.

[n] *Mat. Par. p. 952 953. Speed, p 636. Dan. p. 178.*

[x] In the third yeare of King *Edward* the 2d, this king revoking his great Mynion *Piers Gaveſton*, newly baniſhed by the Parliament into *Ireland*, and admitting him into as great favour as before, contrary to his oath and promiſe: the Barrons hereupon by common conſent ſent the King word; *that he ſhould baniſh Piers from his company according to his agreement, or elſe they would certainly riſe up againſt him as a perjured perſon.* Vpon which the King much terrified ſuffers *Piers* to abjure the Realme; who returning againe ſoone after to the Court at *Yorke*; where the king entertained him the Lords ſpirituall and temporall, *to preſerve the liberties of the Church and Realme ſent an honourable meſſage to the King, to deliver Piers into their hands, or baniſh him, for the preſervation of the peace, Treaſure and weale of the Kingdome*; this wilfull King denies their juſt requeſt; whereupon the Lords thus contemned and deluded, raiſed an army, and march with all ſpeede towards New-Caſtle, NOT TO OFFER INIVRIE OR MOLESTATION TO THE KING, *but to apprehend Peirs, and judge him according to Law*: upon this the King fleeth together with *Peirs* to *Tinmouth*, and from thence to *Scarborough Caſtle*, where *Piers* is forced to render himſelfe to the Barrons, who at *Warwicke Caſtle* (without any legall triall by meere martiall Law) beheaded him, *as a ſubverter of the Lawes, and an OPEN TRAITOR TO THE KINGDOME.* For which facts this King afterwards reprehending and accuſing the Lords in Parliament, in the 7th yeare of his Raigne; they ſtoutly anſwered THAT THEY HAD NOT OFFENDED IN ANY ONE POINT, BVT DESERVED HIS ROYALL FAVOVR, *for they* HAD NOT GATHERED FORCE AGAINST HIM *(though he were in Piers his company, aſſiſted, countenanced, and fled with him)* BVT AGAINST THE PVBLICKE ENEMIE OF THE REALME: Whereupon there were two acts of oblivion paſſed by the K. *Lords and Commons aſſembled in that Parliament, (Printed in the* 2d *Part of Magna Charta:) The firſt, that no perſon (on the Kings part) ſhould be queſtioned, moleſted, impeached, impriſoned, and brought to judgement, for cauſing Pierce to returne from Exile, or harboring, councelling or ayding him here after his returne*: The ſecond on the Barons part, in theſe words: *It is provided by the King, and by the Archbiſhops, Biſhops, Abbots, Priors, Earles, Barons and Commons, of the Realme, aſſembled accor-*

[x] *Wilſing. Hiſt. Angl. p. 70 to 75. Typodigma Neuſtr. An. 1309. 1310 Dan. Holinſh. Graf. Speed, Fab Stow* and others in his life: *Fox Acts and Monuments, Edit. ult vol. 1. p. 480. 481.*

I. E. 43. 44.

our Command, and unanimously assented and accorded, that none of what estate or condi-tion soever he be, shall in time to come be appealed or challenged, for the apprehending, retaining or death of Piers de Gaveston, nor shall for the said death be apprehended nor imprisoned, impeached, molested, nor grieved, nor judgement given against him by us, nor by others at our suite, nor at the suite of any other, either in the Kings Court or elsewhere. Which act the King by his Writ sent to the Judges of the Kings Bench, commanding that this grant and concord shall be firme and stable in all its points, and that every of them should be held, and kept in perpetuitie; to which end he commands them to cause this act to be there inrolled, and firmely kept for ever. A pregnant evidence that the Barons taking up Armes then against this Traytor and enemie of the Realme, in pursuance of the Act and sentence of Parliament for his banishment, though the King were in his company, and assisted him all he might, was then both by King and Parliament, adjudged no Treason, nor Rebellion at all in point of Law, but a just & honorable action: Wherefore their taking up Armes is not mentioned in this Act of oblivion, seeing they all held it just, but their putting *Piers* to death, without legall triall; which in strictnesse of Law, could not be justified. Now whether this be not the Parliaments and Kingdomes present case in point of Law (who tooke up armes principally at first, for defence of their owne Priviledges of Parliament, and apprehention of delinquents who seducing the king withdrew him from the Parliament, and caused him to raise an Army to shelter themselves under its power against the Parliament) let every reasonable man determine: and if it be so, we see this ancient Act of Parliament resolves it, to be no high Treason, nor Rebellion, nor offence against the King; but a just, lawfull act, for the kings, the kingdomes honour and safety.

Not long after this, the two [z] *Spensers* getting into the kings favour, and seducing, misconcelling him as much as *Gaveston* did; the Lords and Barrons hereupon in the 14th and 15th yeares of his raigne, confederated together, *to live and dye for justice, and to their power to destroy the TRAITORS OF THE REALME, Especially the two Spensers:* after which they raised an Army, whereof they made *Thomas Earle of Lancaster* Generall; and meeting at *Sherborne*, they plunder and destroy the *Spensers* Castles, Mannors Houses, Friends, Servants, and marching to Saint *Albanes* with Ensignes displayed, sent Messengers to the King then at *London*, admonishing him *not only to ridd his Court but Kingdome, of the TRAITORS TO THE REALME, the Spensers.* (condemned by the Commons in many Articles) *to preserve the peace of the Realme; and to grant them and all their followers Letters Patent of indemnity, for what they had formerly done* Which the King at first denied but afterwards this Army marching up to *London*, where they were received by the City, he yeelded to it, and in the 15th yeare of his Raigne by a speciall Act of Parliament the said *Spensers were disinherited and banished the Realme (for misc-ouncelling the king, oppressing the people by injustice, advising him to levie warre upo his Subjects, making evill Iudges and other Officers to the hurt of the King and Kingdome, incroaching the Kings eare, and usurping his Royall authority) as ENEMIES of the King and OF HIS PEOPLE:* and by another *Act of Parliament*, it was then provided, *that no man should be questioned for any seditions or trespasses committed in the prosecution of Hugh de Spencers the father and sonne*; which Act runnes thus? 'Whereas of late many great men of the Realme surmised to Sir *Hugh le Despenser* the sonne and Father, many misdemeanors by them committed against the estate of our Lord the King and of his Crowne, and to the

[z] *Walsing. Heliensh. Fab. Graf. Stow, Speed. Daniel* in his life.

'diſinheritance of the great men and deſtruction of the people, and purſued thoſe
'miſdemeanors and attainder of them by force, becauſe they could not be attainted by
'proceſſe of Law, becauſe that the ſaid Sir *Hughes* had accroached to them the royall
'power in divers manner: the ſaid Grandees having mutually bound themſelves by
'oath in writing, without the adviſe of our Lord the King; and after in purſuing the
'ſaid *Hugh* and *Hugh*, and their alies and adherents, the ſaid great men and others, ri-
'ding with banners diſplaied, having in them the Armes of the king and their owne; did
'take and occupie the Chattels, Villages, Mannors, Lands, Tenements, Goods, and
'likewiſe take and impriſon ſome of the Kings leige people and others, tooke ſome
'and ſlew others, and did many other things, in deſtroying the ſaid *Hugh* and *Hugh*,
'and their alies, and others in *England*, *Wales*, and in the Marches, whereof ſome things
'may be ſaid Treſpaſſes, and others felonies: and the ſaid *Hugh* and *Hugh*, in the Par-
'liament of our Lord the King, ſommoned at *Weſtminſter* three weekes after the Nati-
'vitie of Saint *John Baptiſt* the 15. yeare of his Raigne, for the ſaid miſdemeanors
'were fore judged and baniſhed the Realme, by a vote of the *Peeres* of the Land; and
'the foreſaid great men in the ſaid Parliament, ſhewed to our Lord the King, that the
'things done in the purſuite of the ſaid *Hugh* and *Hugh*, by reaſon of ſuch cauſes of ne-
'ceſſity, cannot be legally redreſſed or puniſhed without cauſing great trouble, or per-
'chance warre in the land, which ſhall be worſe; and prayed our Lord, that of all alli-
'ances, treſpaſſes and felonies they might be for ever acquitted, for the preſervation
'of peace, the avoyding of warre, and aſſwaging of angers and rancors, and to make
'unitie in the land; and that our Lord the King may more intirely have the hearts and
'Wills of the great men and of his people, to maintaine and defend his Lands, and to
'make warre upon and grieve his enemies. It is accorded and agreed in the ſaid Parlia-
'ment by our Lord the King, and by the Prelates, Earles, Barrons, and Commons of
'the Realme there aſſembled by command of our Lord the King, that none of what e-
'ſtate or condition ſoever he be for alliance, at what time ſoever made, by deed, oath, wri
'ting, or in other manner, nor for the taking, occupying, or detainer of Chattels, towns
'Mannors, Lands, Tenements, and goods taken, impriſoning or ranſoming the King
'leige People, or of other homicides, robberies, felonies, or other things which ma
'be noted as treſpaſſes or fellonies committed againſt the peace of the king by the ſai
'great men, their allies, or adherents in the purſuite aforeſaid, ſince the firſt day
'March laſt paſt, till the thurſday next after the feaſt of the aſſumption of our Ladie, t
'wit, the 19. day of *Auguſt* next enſuing, be appealed, nor challenged, taken nor im
'priſoned, nor grieved, nor drawne into judgement by the King, nor any other at th
'ſuite of any other which ſhall be in the Kings Court or in any place elſe; but that
'ſuch treſpaſſes and Felonies ſhall be diſcharged by this accord and aſſent: ſaving alwai
'to all men, but to the ſaid *Hugh* and *Hugh*, action and reaſon to have and recover the
'Chattels, Farmes, mannors, Lands, tenements, wards and marriages according
'the Lawes and cuſtomes uſed in the Realme, without puniſhment againſt the king,
'damages recovered againſt the party for the time aforeſaid. For which end they pr
'ſcribed likewiſe a Charter of Pardon annexed to this Act according to the purport
'it, which every one that would might ſue out, which Charter you may read in
'*Magna Charta*.

From which Act of Parliament I ſhall obſerve theſe three things. Firſt, that t
their taking up Armes to apprehend the *Spenſers* as enemies to the King and kingdo

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nd marching with banners displayd, was not then reputed high Treason or Rebellion
gainst the King, though it were by way of offence, not of defence, and without any
thority of Parliament: for there is not one word of Treason or Rebellion in this
ct, or in the Charter of pardon pursuing it: and if it had beene high Treason, this
ct and Charters on it extending onely to *Felonie and Trespasses* not to *Treasons* and
ebellions, would [b] *not have pardoned these transcendent Capital crimes*. Secondly, that
e unlawfull outrages, robberies, and murders committed by the souldiers on the kings
ige people, and not on the two *Spensers* the sole delinquents, were the occasion of
is Act of oblivion and pardon, not the Armed pursuing of them, when they had
otten above the reach of Law. Thirdly, that though this were an offensive not de-
nsive warre, made without common assent of Parliament, and many murthers, rob-
ries, and misdemeanors committed in the prosecution of it upon the kings leige peo-
le who were no Delinquents; yet being for the common good to suppresse and ba-
sh these ill Councellors, enemies, Traytors to King and Kingdome, the King and
arliament thought it such a publicke service as merited a pardon of these misdemea-
ors in the carriage of it, and acquitted all who were parties to it, from all suites and
unishments. All which considered, is a cleare demonstration, that they would have
solved our present defensive warre, by Authoritie of both Houses, accompanied
ith no such outrages as these; for the apprehension of such as have beene voted
raytors and Delinquents by Parliament, and stand out in contempt against its ju-
ice, for the defence of the Priviledges and Members of Parliament, the Liberties and
roperties of the subject, the fundamentall lawes of the Realme, the Protestant Re-
gion now indangered by Papists up in Armes in *England* and *Ireland* to extirpate it,
nd the removing ill Counsellors from his Majestie; to be no high Treason, Rebellion
r offence at all against the king, but a just and lawful Act, the very miscarriages wher-
f in the generall (except in such disorderly Souldiers for whom martiall Law hath
rovided due punishments) deserve a publike pardon both from King and Kingdome.
nd to put this out of Question; as no fancie of mine owne, we have an expresse Act
f Parliament, resolving the taking up of Armes by the Queene, Prince, (both but
bjects and capable of High Treason in such a case as well as others) the Nobles and
eople of the Realme against these two *Spensers* and other ill Counsellors about this
ng in the last yeare of his raigne, (though the King himself were in their Company,
nd taken prisoner by the Forces raised against them,) for the necessary preservation,
relicfe, and safety of the Queene, Prince, Nobles, Kingdome, to be no high Treason
or offence at all: namely, the statute of 1 *E.* 3. c. 1. 2. 3. which I shall recite at large.

c Whereas *Hugh Spenser* the Father, and *Hugh Spenser* the Sonne, late at the suite of *Tho-*
c *mas* then Earle of *Lancaster* and *Leycester*, and Steward of *England*, by the common
c assent and vote of the Peers and Commons of the Realme, and by the assent of
c king *Edward* Father to our Soveraigne Lord the King, that now is, AS TRAITORS
c & ENEMIES OF THE KING, & OF THE REALME, were Exiled, disinhe-
c ted and banished out of the Realme for ever. And afterward the same *Hugh* by e-
c ill Councell, which the king had about him, without the assent of the Peeres and
c Commons of the Realme, came againe into the Realme: and they with other pro-
c cured the said king to pursue the said Earle of *Lancaster*, and other great men and
c people of the Realme, in which pursuite the said Earle of *Lancaster* and other great
c men and people of the Realme, were willingly dead and disinherited, and some
c outlawed,

[a] *Dyer f. 50. pl. 4. Cooke, l. 6 f. 13. Stamford. f. 2.*

'outlawed, baniſhed, and diſinherited; and ſome diſinherited and impriſoned, and
'ſome ranſommed and diſherited: and after ſuch miſchiefe the ſaid *Hugh* and *Hugh*
'Maſter *Robert Baldocke* and *Edmond* Earle of *Arundell* uſurped to them the Royall
'power, ſo that the king nothing did, nor would doe, but as the ſaid *Hugh* and *Hugh*,
'*Robert* and *Edmond* Earle of *Arundell* did councell him, were it never ſo great wrong:
'during which uſurpation, by dureſſe and force againſt the Will of the Commons, they
'purchaſed Lands, as well by fines levied in the Court of the ſaid *Edward*, as otherwiſe:
'and whereas after the death of the ſaid Earle of *Lancaſter*, and other great men,
'our Soveraigne Lord the King that now is, and Dame *Iſabel* Queene of *England*,
'his Mother, by the Kings will and Common Councell of the Realme, went over to
'*France*, to treate of peace betweene the two Realmes of *England* and *France*, upon
'certaine debates then moved. The ſaid *Hugh* and *Hugh*, *Robert* and *Edmond* Earle
'of *Arundell* continuing in their miſchiefe, encouraged the king againſt our Soveraigne
'Lord the king that now is, his ſonne, and the ſaid Queene his wife, and by royall po-
'wer which they had to them encroached, as afore is ſaid, procured ſo much grievance
'*by the aſſent of the ſaid King Edward*, to our Soveraigne Lord the King that now is,
'and the Queene his mother, being in ſo great jeopardy of themſelves in a ſtrange
'Country, *and ſeeing the Deſtruction, Dammage, Oppreſſions, and Diſtractions which*
'*were notoriouſly done in the Realme of England*, upon holy Church, Prelates, Earles Ba-
'rons, and other great men, and the Commonalty by the ſaid *Hugh* and *Hugh*, *Robert*
'and *Edmond Earle of Arundell* by the encroaching of the ſaid royall power to them,
'to take as good Councell therein as they might. *And ſeeing they might not remedie the*
'*ſame unleſſe they came into England, with an Army of men of warre*, and by the Grace
'of God with ſuch puiſſance, and with the helpe of great men and Commons of the
'Realme, they have vanquiſhed and deſtroyed the ſayd *Hugh* and *Hugh*, *Robert* and
'*Edmond*: Wherefore our Soveraigne Lord King *Edward* that now is, at his Parlia-
'ment holden at *Weſtminſter*, at the time of his Coronation, the morrow after *Candle-*
'*mas*, in the firſt yeare of his reigne, upon certaine Petitions and requeſts made unto
'him in the ſaid Parliament upon ſuch Articles above rehearſed, by the common coun
'cell of the Prelates, Earles, Barons, and other great men, and by the Commonalty o
'the Realme, therebeing by his Commandment, hath provided, ordained and ſtabli
'ſhed in forme following. Firſt, that no great man, or other of what eſtate, dignity, o
'condition he be, that came with the ſaid king that now is, and with the Queene hi
'mother into the Realme of *England*, and none other dwelling in *England*, who cam
Note. 'with the ſaid king that now is, and with the Queene, *In ayde of them to purſue thei*
'*ſaid enemies, in which purſuite the King his Father was taken and put in ward, and y*
'*remaineth in ward, ſhall not be moleſted impeached or grieved in perſon or goods*, in th
'kings Court, or other Court, for the purſuite of the ſaid king, taking and with holdin
'of his body, nor purſuite of any other, nor taking of their perſons, goods, nor death
'any man, or any other things perpetrate or committed in the ſaid purſuite, from th
'day the ſaid king and Queene did arme, till the day of the Coronation of the ſam
'king: and it is not the kings minde, that ſuch offenders that committed any treſpaſ
'or other offence out of the purſuites ſhould goe quit, or have advantage of this ſt
'tute, but they ſhall be at their anſwere for the ſame at the Law. Item, that the repea
'of the ſaid Exile which was made by Dures and force be annulled for evermore, a
'the ſaid Exile made by award of the Peeres and Commons, by the kings aſſent as b

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fore is said, shall stand in his strength in all points, after the tenure of every particular therein contained. Item, that the Executors of the Testament of all those that were of the same quarrell dead, shall have actions and recover the Goods and Chattels of them, being of the said quarrell, whose executers they be; as they of the same quarrell should, &c.

Certainely here was an higher pursuite and levying warre against the King and his evill Councellors, then any yet attempted by this Parliament; and a warre rather offensive, then defensive, in which the king himself was *both taken and detained Prisoner*, and then forced to resigne his Crowne to his sonne; yet this is here justified, *as a necessary, just and lawfull warre by an Act of Parliament*, never yet repealed; and all that bare Armes against the king and his ill Councellors, yea they who pursued, apprehended, and imprisoned the king himselfe, are, as to this particular, discharged by the king, and whole Parliament from all manner of guilt, of punishment, or prosecution whatsoever against them. Which consideration makes me somewhat confident, that this King and the Parliament held in the 25. yeare of his Raigne, *ch.* 2. *Which declares it high Treason, to levie warre against the King in his Realme*, did never intend it of a necessary defensive warre against a seduced King and his evill Councellors (especially by the Votes of both Houses of Parliament, who doubtlesse would never passe any Act to make themselves, or their Posteritie in succeeding Parliaments, Traytors, for taking up meere necessary defensive Armes for their owne, and the Kingdomes preservation) for that had beene diametrally contrary to this statute, made in the very first yeare and Parliament of this King; and would have layd an aspertion of High Treason upon the king himself, the Queene his Mother, their own Fathers, and many of themselves; who thus tooke up Armes and made a defensive kinde of warre upon King *Edward* the 2d, taking him prisoner: but onely to Rebellious insurrections, of private persons, without any publick authority of Parliament, or the whole Kingdome in generall; and of meere offensive warres against the King without any just occasion, hostilitie or violence on the Kings part, necessitating them to take up defensive Armes: which I humbly submit to the judgement of those grand Rabbies and Sages of the Law, and the Honorable Houses of Parliament, who are best able to resolve, and are the onely Iudges to determine this point in controversie, by the expresse letter and provision of 25. *Ed.* 3. *ch.* 2. of Treasons.

In the c first yeare of king *Richard* the 2d. *John Mercer* a Scot, with a Navie of *Spanish, Scottish & French* ships much infested the Marchants and Coasts of *England* taking many prises without any care taken by the king, Lords, or Councell to resist them. Whereupon *Iohn Philpot* a rich Merchant of *London*, diligently considering the defect, that I say not treachery of the *Duke of Lancaster*, and other Lords who ought to defend the Realme, and grieving to see the oppressions of the people, did at his proper charge hire a thousand souldiers and set out a fleete, to take the said *Mercers* ships, with the goods he had gotten by Pyracie, and defend the Realme of *England* from such incursions: who in a short time tooke *Mercer* prisoner, with 15. *Spanish* ships, and all the Booties he had gained from the *English*: whereat all the people rejoyced exceedingly, commending and extolling *Philpot* for the great love he shewed to his Countrey, and casting out some reproachfull words against the Nobles and Kings councell who had the rule of the kingdome and neglected its defence: Whereupon the Nobility, Earles and Barons of the Realme, conscious of this their negligence, and envying *Philpot*

c *Walsing. Hist. Angl. p. 213. See Holinsh. Speed. Truffell in Rich. 2 and Cambdens Britannia, of the British Ilands, p. 226.*

for this his Noble praiſe-worthy action, began not onely ſecretly to lay ſnares for him, but openly to reproach him, ſaying: *That it was not lawfull for him to doe ſuch things Without the adviſe or counſell of the King and Kingdome: quaſi non licuiſſet benefacere Regi VEL REGNO ſine conſilio Comitum & Baronum:* (writes *Walſingham*) *as if it were not lawfull to doe good to the King or Kingdome, without the adviſe of the Earles and Barrons, or Lords of the Privie Councell.* To whom objecting theſe things, and eſpecially to *Hugh Earle of Stafford*, who was the chiefe Prolocutor and ſpake moſt againſt it, *Iohn Philpot* gave this anſwere: 'Know for certaine, that I have deſtinated my money, ſhips, and men to ſea to this end, not that I might deprive you of the good name and honour of your *Militia*, or warlike actions, and engroſſe it to my ſelfe, but pittying the miſery of my Nation and Country, which now by your ſloathfulneſſe, of a moſt Noble kingdome, and Lady of Nations, is devolved into ſo great miſery, that it lyeth open to the pillage of every one of the vileſt Nations, ſeeing there is none of you, who will put your hand to its defence. *I have expoſed me and mine therefore for the Salvation of my proper Nation, and freeing of my Country.* To which the Earle and others had not a word to reply. From this memorable hiſtory and diſcourſe (which I have tranſlated *verbatim* out of *Walſingham,*) I conceive it moſt evident, that in the default of king and Nobles, it is lawfull for the Commons and every particular ſubject without any Commiſſion from the king or his Councell, in times of imminent danger, to take up Armes and raiſe Forces by Sea or Land to defend the king and his Native Country againſt invading enemies; as *Philpot* did, without offence or crime. Then much more may the Houſes of Parliament, the repreſentative body of the whole kingdome, and all private Subjects by their Command, take up neceſſary defenſive Armes againſt the kings Popiſh and Malignant Forces to preſerve the king, Kingdome, Parliament, People from ſpoyle, and ruine.

[c] *Walſin. hiſt. Angl p. 341.* In [c] the 8. yeare of King *Richard* the 2d. there aroſe a great difference betweene the *Duke of Lancaſter*, & the king & his young complices, who conſpired the Dukes death; agreeing ſodainely to arreſt and arraigne him before *Robert Triſilian* Chiefe Iuſtice, who boldly promiſed to paſſe ſentence againſt him, according to the quality of the crimes objected to him. Vpon this the Duke having private intelligence of their treachery, to provide for his owne ſafety, wiſely withdrew himſelfe, and poſted to his Caſtle at *Ponfract, ſtoring it with Armes and Victualls.* Hereupon not onely a private but publicke diſcord was like to enſue; but by the great mediation and paines of *Ione* the kings mother, an accord and peace was made betweene them: and this defence of the Duke by fortifying his Caſtle with Armes againſt the King and his ill inſtruments for his owne juſt preſervation, held no crime. If ſuch a defence then were held juſt and lawfull in one particular Subject and Peere of the land onely, much more muſt it be ſo in both Houſes of Parliament, and the Kingdome, in caſe the Kings Forces invade them.

[d] *Walſing. Hiſt. Ang* p. 358, to 367. *Polyc. Fab. Speed, Graft. Holin. Howes, Truſſel.* in 10. & 11. *R.* 2. 11 *R.* 2. c. 1. 1071. In the [d] 10th yeare of *King Richard the ſecond* this unconſtant king being inſtigated by *Michael de la Pole, Robert Vere* Duke of *Ireland, Alexander Nevill Archbiſhop of Yorke, Robert Tryſilian*, and other ill Councellors and Traytors to the kingdome, endeavoured to ſeize upon *the Duke of Gloceſter, the Earles of Arundell, Warwicke, Derby Notingham*, and others who were faithfull to the kingdome, and to put them to death having cauſed them firſt to be indighted of High Treaſon at *Nottingham* Caſtle, and hired many Souldiers to ſurpriſe them: Hereupon theſe Lords for their owne juſt

defence

defence, raiſed Forces and met at *Haryngge Parke* with a numerous Army: whereat the King being much perplexed, adviſed what was beſt for him to do. *The Archbiſhop of Yorke and others of his ill Councell, adviſed him to goe forth and give them battle; but his wiſeſt councellors diſſwaded him, affirming, that the King ſhould gaine no benefit if hee vanquiſhed them, and ſhould ſuſtaine great diſhonour and loſſe if he were conquered by them.* In the meane time *Hugh Linne* an old Souldier, who had loſt his ſenſes, and was reputed a foole, comming in to the Councell, the King demanded of him in jeſt, *what hee ſhould doe againſt the Nobles met together in the ſaid Parke?* who anſwered; *Let us goe forth and aſſault them, and ſlay every mothers ſonne of them, and by the eyes of God, this being finiſhed,* THOU HAST SLAINE ALL THE FAITHFVLL FRIENDS THOV HAST IN THE KINGDOME. Which anſwere, though uttered fooliſhly; yet wiſe men did moſt of all conſider. At laſt is was reſolved by the mediators of Peace, that the Lords ſhould meete the King at *Weſtminſter*, and there receive an anſwere to the things for which they tooke Armes; thither they came ſtrongly Armed with a great guard, for feare of ambuſcadoes to intrap them: where the Chauncellour in the Kings name ſpake thus to them. *My Lords, our Lord the King hearing that you were lately aſſembled at Harenggye Parke in an unuſuall manner; would not ruſh upon you as he might have eaſily done, had he not had care of you, and thoſe who were with you: becauſe no man can doubt, if he had raiſed an Army, he would have had many more men than you, and perchance much bloud of men had beene ſpilt, which the King doth moſt of all abhorre, and therefore aſſuming to himſelfe patience and mildneſſe, he hath made choyce to convent you peaceably, and to tell him the reaſon why you have aſſembled ſo many men.* To which the Lords anſwered, *That* THEY HAD MET TOGETHER FOR THE GOOD OF THE KING AND KINGDOME; AND THAT THEY MIGHT PVLL AWAY THOSE TRAITORS FROM HIM, WHICH HE CONTINVALLY DETAINED WITH HIM. *The Traytors they appealed were the foreſaid ill Councellors, and Nicholas Brambre the falſe London Knight: and to prove this appeale of them true, caſting downe their gloves they ſaid they would proſecute it by Duell:* The King anſwered; *Thus ſhall not be done now, but in the next Parliament, which we appoint to be the morrow after the Purification of the bleſſed Virgin, to which as well you as they comming, ſhall receive ſatisfaction in all things according to Law.* The Lords for their owne ſafety kept together till the Parliament, and in the meane time defeated the Forces of the Duke of *Ireland*, raiſed privately by the Kings Command to ſurpriſe them. The Parliament comming on in the 11. yeare of *Richard* the ſecond: theſe ill councellors were therein, by ſpeciall Acts attainted, condemned of High Treaſon, and ſome of them executed; and theſe defenſive Armes of the Lords, for their owne and the Kingdomes ſafety, adjudged and declared to be no Treaſon: *but a thing done to the honour of God, and Salvation of the King and his Realme:* witneſſe the expreſſe words of the Printed Act of 11 *R.* 2. c. 1. which I ſhall tranſcribe. Our Soveraigne Lord the King amongſt other Petitions and requeſts to him made by the Commons of his ſaid Realme in the ſaid Parliament, hath received one Petition in the forme following. The Commons prayed, that whereas the laſt Parliament for cauſe of the great and horrible miſchiefes and perills which another time were fallen BY EVILL GOVERNANCE WHICH WAS ABOVT THE KINGS PERSON, by all his time before by *Alexander* late Archbiſhop of *Yorke*, *Robert de Veere* late Duke of *Ireland*, *Michael de la Pole* late Earle of *Suffolk*,

Robert

'*Robert Triſilian* late Iuſtice, and *Nicholas Brembre* Knight, with other their adherents,
'and others. *Whereby the King and all his Realme, were very nigh to have beene wholly*
'*undone and deſtroyed*; and for this cauſe, and to eſchew ſuch perils and miſchiefes for
'the time to come, a certaine ſtatute was made in the ſame Parliament, with a Commiſ-
'ſion to diverſe Lords, for the weale, honour and ſafeguard of the King, his regalty and
'of all the Realme, the tenour of which Commiſſion hereafter followeth: *Richard*, &c.
'as in the Act. And thereupon the ſaid *Alexander*, *Robert*, *Mighill*, *Robert*, and *Ni-*
'*cholas* and their ſaid adherents, ſeeing that their ſaid evill governance ſhould be perci-
'ved, and they by the ſame cauſe more likely to be puniſhed by good juſtice to be done,
'and alſo their evill deedes and purpoſes before uſed to be diſturbed by the ſayd Lords
'aſſigned by commiſſion as afore; made, conſpired, & purpoſed *divers horrible Treaſons*,
'and evils againſt the King, and the ſaid Lords ſo aſſigned, and againſt all the other Lords
'and Commons, which were aſſenting to the making of the ſaid Ordinance and Com-
'miſſion, in deſtruction of the king, his Regalty, and all his Realme. Whereupon
'*Thomas* Duke of *Gloceſter* the kings Vncle, *Richard* Earle of *Arundle*, and *Thomas*
'Earle of *Warwicke*, perceiving the evill purpoſe of the ſayd Traytors, did aſſemble
'themſelves in forcible manner for the ſafety of their perſons, to ſhew and declare the
'ſaid Treaſons and evill purpoſes, and thereof to ſet remedie; as God would, and
'came to the Kings preſence, affirming againſt the ſaid 5. Traytors appealed of High
'Treaſon, by them done to the King, and to his Realme: upon which appeale the king
'our Soveraigne Lord, adjourned the ſaid parties till this preſent Parliament, and did
'take them into his ſafe protection, as in the record made upon the ſame appeale fully
'appeareth. And afterwards *in great Rebellion*, and againſt the ſaid protection, the
'ſaid Traytors, with their ſaid adherents and others aforeſaid, continuing their evill
'purpoſe, ſome of them aſſembled a great power (by letters and Commiſſion from the
'King himſelfe, as *Walſingham* and others write) to have deſtroyed the ſaid Duke and
'Earles appellants, and other the kings lawfull leige people, and to accompliſh the
'Treaſons and evill purpoſes aforeſaid. Whereupon the ſaid *Duke of Gloceſter*, *Henry*
'*Earle of Darby*, the ſayd *Earles* of *Arundell* and *Warwicke*, and *Thomas Earle Mar-*
'*ſhall*, ſeeing the open Deſtruction of the King and all his Realme, if the ſaid evill pur-
'poſed Traitors and their adherents, were not diſturbed, which might not otherwiſe
'have beene done, but with ſtrong hand; for the weale and ſafeguard of the King our
'Soveraigne Lord, and of all his Realme, did aſſemble them forcibly, and rode and pur-
'ſued till they had diſturbed the ſaid power gathered by the ſaid Traytors, and their ad-
'herents aforeſaid, which five Traytors be attainted this preſent Parliament of the
'Treaſons and evills aforeſaid, at the ſuite and appeale of the ſaid Duke of *Gloceſter*
'*Earles* of *Darby*, *Arundle*, *Warwicke*, and *Marſhall*. That it would pleaſe our redou-
'led Soveraigne Lord the King *to accept, approve, and affirme*, in this preſent Parli-
'ment, all that was done in the laſt as afore, and as much as hath beene done ſince the
'laſt Parliament by force of the ſtatute, Ordinance, or Commiſſion aforeſaid; and all
'*All* that the ſaid Duke of *Gloceſter Earles* of *Arundell* and *Warwicke* did; and that the
'ſame Duke and *Earles*, and the ſaid *Earles* of *Derby*, and Marſhall or any of them did
'Or any other of their company or of their ayde, or of their adherents, or of any of
'them, or touching the Aſſemblies, Ridings, Appeales, and Purſuites aforeſaid.
'* *As a thing made to the Honour of God, Salvation of the King, maintenance of his*
'*Crowne, and alſo of the Salvation of all his Realme* (therefore doubtleſſe no Trea-

Rebellion, nor any offence in point of Law:) *and also to Ordaine and Stablish*, that the said Duke of *Gloster*, Earles of *Darby*, *Arundell*, *Warwicke* and *Marshall*, nor none of them, nor none of such as have beene of their returne, or company, force, ayde or councell, or any of them in the things aforesaid, nor none other person for any thing aforesaid shall be impeached, molested, or grieved at the suite of the king, nor of the party, nor in other manner, because of any assembly, riding, beating, levying of Penons, or of Banners, discomfiture, death of a man, imprisonment of any person, taking, leading away, or detinue of any horses or of any other beasts, taking or carriage of goods, harnesse, armour, cattle, and other movable goods, breaking of houses, or of other possessions or goods, assault, battery, robberies, thefts, comming or tarrying with force and armes, or armed in the Kings presence at the Parliament, or Councell, or elsewhere. Saying of people, or exciting the people to rise forcibly against the peace by letters, commissions, or any other deeds, or of any other thing that may be surmised by them, or any of them, or ought or purposed to have beene done from the beginning of the world, touching any of the said matters before the end of this present Parliament by any imagination, interpretation, or other colour, but shall bee quit and discharged for ever: except that the King be answered of all the goods, and cattels that were to them which be attainted in this present Parliament, or to any of them, and which goods and things were taken by any person the first day of *January* last past, or after hitherto. We considering the matter of the said Petition to be true, and the request of the said Commons in this party * to be to the honour of God, and the profit of us and our Realme, of the assent of the Prelates, Dukes, Earles, Barrons and all others of this present Parliament, doe garnt the requests of the said Commons in all points, after the forme of the said Petition. And moreover of the assent aforesayd, we will and grant for the greater quietnesse of our said Realme, though that the said Duke or Earles appellants, or any other of their company, retinue, force, ayde, councell or adherents, or any of them have taken, led away, or withholden any of our Iusticers, or any other of our ministers, in disturbance of execution of the Law of our Realme of *England*, or in other manner, or that they have taken any manner of person as Traitors to Us or to our Realme, or other person, and the same have voluntarily suffered to goe at large, or escape beyond the sea from the 14th day of *Novemb.* last past, till the end of this present Parliament; that they nor any of them be for this cause impeached, molested, nor grieved any manner of way at the suite of us, our heires, nor none other party, but thereof they shall be quit, and discharged for ever; nor that they nor any of them be in any wise molested, grieved, nor impeached at the suite of us, our heires, or other party for any thing done at any time for to attaine to their purpose against the said appealers or any of them, or against any other person for this cause, nor for any other thing or deed to affirme the same purposes, till the end of this present Parliament but thereof shall be acquitted.

* Nota.

This Act with others made the same Parliament continued inviolable without dispute for 10 yeers space, during wch there were 8. more Parliaments held wch approved it: but in 21 *R.* 2. the King having † violently seised upon the Duke of *Gloucester* & the Earles of *Warwicke* and *Arundell*, and packed a Parliament to his minde, by not summoning any Lords thereto but those of his party, by causing divers Knights and Burgesses of his own nomination, never chosen by the people, to be returned in divers places, and overawing the rest with a guard or 4000. *Cheshire* Archers, caused these Lords to be illegally attainted of Treason upon fained prerences, out of this old grudge, and the

† See *Walsingh. Holinsh. Graft. Speed, Stow, Trussel, in 21. R 2. & 21 R c. 16: 17 18. 19* But especially ca. 20. will manifest the unjustnesse of this unlawful packed conventicle if I may so call it,

Acts of this Parliament to be reverſed; yet not this Act, as I conceive, which is part of it, being ſpecially ſaved by 21. *R.* 2. c. 13. But however by the ſtatute of 1 *H.* 4. c. 3. 4. the Parliament of 21. was wholly repealed, reverſed, revoked, voyded, undone and anulled for ever, with all the Acts, circumſtances, and dependants thereof: and this Parliament of 11. *R.* 2. *Enacted to be firmely holden and kept after the purport and effect of the ſame;* as a thing made for the great Honour and common profit of the Realme, and ch. 5. It is ordained and aſſented, that the Lords and other which were
‘ forejudged in the Parliament holden the ſaid 21. yeare, or by Authority of the ſame,
‘ which now be in life, and the heires of the Lords and others that be dead, ſhall be
‘ wholly reſtitute and reſtored to their names, all manner of inheritaments and poſſeſ-
‘ ſions, reverſions, fees, reverſions, offices, liberties, and franchiſes as intirely as the ſaid
‘ Lords and others which be in life, or the Lords and other which be dead, anceſtors of
‘ the heires, or the feoffees of the ſaid Lords or other aforeſaid, or other feoffees to
‘ their uſe, were at the time of the judgement given againſt them, the ſaid 21 yeare, by
‘ entrie, without other ſuite thereof to be made, or livery to be had of the ſame. And
‘ all the goods and chattels which were the ſaid Lords, or the other perſons aforeſaid, ſo
‘ forejudged, whereof the king is not anſwered, and be in the hands of the Sheriffes,
‘ Eſcheators, or other Officers, Miniſters, or any other and concealed by them, the king
‘ wills and granteth, that the ſame Lords and other which now be in life, and the Exe-
‘ cutors, and adminiſtrators of them that be dead; ſhall have thereof delivery and reſti-
‘ tution; and that the Sheriffes, Eſcheators, Officers and Miniſters ſo occupying the
‘ ſaid goods and chattels by ſuch concealment, bee puniſhed for the ſame con-
‘ cealement.

So that by the expreſſe reſolution of theſe two ſeverall Parliaments, theſe Lords and Commons taking up defenſive Armes and making war againſt thoſe wicked Councellours of this King which ſought their ruine, and endeavoured the deſtruction of the Realme (though they had the kings preſence and commiſſions to countenance all their actions and proceedings of this nature, and the Lords wanted the Ordinances of both houſes to authorize this their arming, and war) was ſolemnely declared and adjudged, to be no Treaſon nor Rebellion at all, nor levying of warre againſt the king, within the ſtatute of 25. *E.* 3. but contrarywiſe; *a thing done to the honour of God, the Salvation of the King,* (for if the Kingdome periſh or miſcarry, the king as king muſt needs periſh with it) *the maintenance of his Crowne,* (ſupported onely by the maintenance of the kingdomes welfare) *and the Salvation and common profit of all the Realm:* and this being one of the firſt ſolemne judgements (if not the very firſt) given in Parliament after the making of the ſtatute of 25 *E.* 3. which hath relation to its *clauſe of levying war,* muſt certainely be the beſt expoſition of that Law: which the Parliament onely ought to interpret, as is evident by the ſtatute of 21. *R.* 2. c. 3. (*It is ordained and ſtabliſhed, that every man which, &c. or he that raiſeth the people and riſeth againſt the King to make warre within his Realme; and of that be duly attainted and judged* in the Parliament *ſhall be judged as a Traytor of High Treaſon againſt the Crowne,*) and other forecited Acts: and if this were no Treaſon, nor Rebellion, nor Treſpaſſe in the Barons againſt the king or kingdome; but a warre *for the honour of God, the ſalvation of the king, the maintenance of his Crowne, the ſafety and common profit of all the Realme,* much more muſt our Parliaments preſent defenſive warre againſt his Majeſties ill Councellors, Papiſts, Malignants, Delinquents, and men of deſperate fortunes, riſen

up

up in Armes against the Parliament, Lawes, Religion, Liberties, the whole Kingdomes peace and welfare, be so too; being backed with the very same, and farre better, greater authority, and more publike reasons then their warre was, in which the safety of Religion was no great ingredient, nor the preservation of a Parliament from a forced dissolution, though established and perpetuated by a publike Law.

King *Henry* the 4th. taking up Armes against King *Richard*, and causing him to be Articled against, and judicially deposed in and by Parliament for his Male-administration; It was Enacted by the Statute of 1. *Hen* 4. cap. 2. *That no Lord Spirituall nor Temporall nor other, of what estate or condition that he be, which came with King* Henry *into the Realme of* England, *nor none other persons whatsoever they be, then dwelling within the same Realme, and which came to this King in aide of him, to pursue them which were against the Kings good intent, and the* COMMON PROFIT OF THE REALME, *in which pursuite* Richard *late King of* England, *the second after the Conquest, was pursued taken and put in Ward, and yet remaineth in Ward, be impeached, grieved, nor vexed in person, nor in goods, in the Kings Court, nor in none other Court, for the pursuites of the said King, taking and with-holding of his body, nor for the pursuits of any other, taking of persons and cattells, or of the death of a man, or any other thing done in the said pursuite, from the day of the said King that now is arived, till the day of the Coronation of Our said Soveraigne Lord* Henry. *And the intent of the King is not, that offendors which committed Trespasses, or other offences out of the said pursuits, without speciall warrant, should be ayded, nor have any advantage of this Statute, but that they be thereof answerable at the Law.* If those then who in this offensive Warre assisted *Henry* the 4th. to apprehend, and depose this perfidious, oppressing tyrannicall king, seduced by evill Counsellors and his owne innate dis-affection to his naturall people, deserved such an immunity of persons and goods, from all kinds of penalties, because though it tended to this ill kings deposition, yet in their intentions it was really *for the common profit of the Realme*, as this Act defines it. No doubt this present defensive Warre alone against Papists, Delinqnents, and evill Counsellors, (who have miserably wasted, spoiled, sacked many places of the Realme, and fired others in a most barbarous maner, * contrary to the Law of Armes and Nations, and labour to subvert Religion, Laws, Liberties, Parliaments, and make the Realm a common Prey) without any ill intention against his Majesties Person, or lawfull Royall Authority, deserves a greater immunity; and can in no reasonable mans judgement, be interpreted any Treason, or Rebellion against the king, or his Crowne, in Law or Conscience.

* See *Albericus Gentilis de Jure Belli lib. 1. cap. 18. 20. 21. 22. 23*

In 8 the 33. yeare of king *Henry* the 6th. (a weake Prince wholly guided by the Queene and Duke of *Somerset*, who ruled all things at their wills, under whose Government, the greatest part of *France* was lost;) all things went to ruine both abroad and at home; and the Queene (much against the Lords and Peoples mindes) preferring the Duke of *Somerset* to the Captainship of *Calice*, the Commons and Nobility were greatly offended thereat, saying, *That he had lost* Normandy, *and so would he do* Calice. Hereupon the *Duke of Yorke*, the *Earles of Warwicke and Salisbury*, with other their adherents, raised an Army in the Marches of *Wales*, and Marched with it towards *London*, to suppresse the Duke of *Somerset* with his Faction, and reforme the Governement. The king being credibly informed hereof, assembled his Host, and marching towards the *Duke of Yorke* and his Forces, was encountred

† *Grafton*, p. 625. 626 627 628. *Hall.* 32. & 33. H 6 t. 167. 168. *Holinshead*, *Stow Speed*, *Fabian.*

by them at Saint *Albanes*, notwithſtanding the kings Proclamation to keepe the Peace; where in a ſet Battell, the *Duke of Somerſet*, with divers Earles, and 8000. others were ſlaine on the kings part, by the *Duke of Yorke*, and his companions, and the king in a manner defeated. The Duke after this Victory obtained, remembring that he had oftentimes declared and publiſhed abroad; *The onely cauſe of this War to be, THE ADVANCEMENT OF THE PUBLIKE WEALE, and TO SET THE REALME IN A MORE COMMODIOVS STATE and BETTER CONDITION*; Vſing all lenity, mercy, and bounteouſneſſe, would not once touch or apprehend the body of King *Henry*, whom he might have ſlaine, and utterly deſtroyed, conſidering that hee had him in his Ward, and Governance; but with great honour and due reverence, conveyed him to *London*; and ſo to *Weſtminſter*: where a Parliament being ſummoned and aſſembled ſoone after; It was therein Enacted, *That no perſon ſhould either judge or report any point of untruth of the Duke of* Yorke, *the Earles of* Salisbury *and* Warwicke, **For comming in Warlike manner againſt the King** *at Saint* Albanes, **Conſidering** *that their attempt and enterpriſe*, **Was onely to ſee the Kings Perſon in Safeguard and Sure-keeping, and to put and Alien from Him the publike Oppreſſors of the Common wealth**; *by whoſe miſgovernance, his life might be in hazard, and his Authority hang on a very ſmall Thred.* After this, the [h] Duke, and theſe Earles raiſed another Army, for like purpoſe, and their owne defence in the 37 and 38 yeares of *H.6.* for which they were afterwards, by a packed Parliament at *Coventree*, by their Enemies procurement, *Attainted of high Treaſon, and their Lands and Goods confiſcated.* But in the Parliament of 39. *H. 6.* cap. 1. *The ſaid attainder, Parliament, with all Acts and Statutes therein made, were wholly Reverſed Repealed, annulled; as being made by the excitation and procurement of ſeditious ill diſpoſed Perſons, for the accompliſhment of their owne Rancor and Covetouſneſſe, that they might injoy the Lands, Offices, Poſſeſſions, and Goods of the lawfull Lords and liege People of the King; and that they might finally deſtroy the ſaid lawfull Lords, and Liege People, and their Iſſues and Heires for ever* (as now the Kings ill Counſellors, and hungry Cavalleers ſeek to deſtroy the Kings faithfull Liege Lords and People, that they may gaine their Lands and Eſtates; witneſſe the late intercepted Letter of Sir. *Iohn Bookes*, giving adviſe to this purpoſe to his Majeſtie:) *and this Aſſembly was declared; to be no lawful Parliament, but a deviliſh Counſell, which deſired more the deſtruction then advancement of the Publike weale*; and the Duke, Earles, with their aſſiſtants were reſtored, and declared to be **Faithful and Lawful Lords, and Faithful liege People of the Realme of England, who alwaies had great and Faithfull Love to the Preferrement and Surety of the Kings Perſon, according to their Duty.**

[h] *Hall, Graſton, Fabian, Caxton, Holinſhed Stow, Speed, Anno 37. 38. & 39. R 6.*

If then theſe two Parliaments acquitted theſe Lords and their companions, thus taking up Armes, from any the leaſt guilt of Treaſon and rebellion againſt the King, becauſe they did it onely *for the advancement of the publike Weale, the ſetting the Realme in a better condition the removing ill Counſellors, and publike oppreſſors of the Realme from about the King, and to reſcue his perſon out of their hands*: then queſtionleſſe by their reſolutions, our preſent Parliaments taking up defenſive armes, upon the ſelfe-ſame grounds, and other important cauſes (and that by conſent of both Houſes, which they wanted) can be reputed no high Treaſon nor Rebellion againſt the King in point of Law; and no juſt, no rationall Iudge or Lawyer can juſtly averre the contrary,

againſt

against so many forecited resolutions in Parliament, even in printed Acts.

The [i] Earle of *Richmund*, afterward King *Henry the seventh*, taking up armes against *Rickard the third*, (a lawfull King, *de facto*, being crowned by Parliament; but an Vsurper and bloody Tyrant in Verity;) to recover his Inheritance, and Title to the Crowne, and ease the Kingdome of this unnaturall blood-thirsty Oppressor, before his fight at *Boswell* Field, used this Oration to his Souldiers, pertinent to our purpose. 'If ever God gave victory to men fighting in a just quarrell; or if he ever aided 'such as made warre for the wealth and tuition of their owne naturall and nutritive 'Countrey: or if he ever succoured them which adventured their lives for the reliefe 'of Innocents, suppression of malefactors, and apparent Offenders; No doubt, my 'Fellowes and Friends, but he of his bountifull goodnesse will this day send us triumphant victory, and a lucky revenge over our proud Enemies, and arrogant adversaries; for if you remember and consider the very cause of our just quarrel, you shall apparently perceive the same to be true, godly, and vertuous. In the which I doubt not but God will rather ayde us, (yea, and fight for us) then see us vanquished, and profligate by such as neither feare him, nor his Lawes, nor yet regard Iustice and honesty. 'Our caute is so just, that no enterprise can be of more vertue, both by the Laws Divine 'and Civill, &c. If this cause be not just, and this quarrell godly, let God, the giver 'of victory judge and determine, &c. Let us therefore fight like invincible Gyants, 'and set on our enemies like untimorous Tygers, and banish all feare like ramping Lyons. March forth like strong and robustious Champions, and begin the battaile like 'hardy Conquerors; the Battell is at hand, and the Victory approacheth, and if wee 'shamefully recule, or cowardly fly, we and all our sequele be destroyed, and dishonoured for ever. This is the day of gaine, and this is the time of losse; get this dayes victory, and be Conquerours; and lose this dayes battell, and bee villaines. And therefore in the name of God, and Saint *George*, let every man couragiously advance his standard: They did so, slew the Tyrannicall Vsurper, wonne the Field; And in the first Parliament of his Raigne, there was this Act of indemnity passed, That all and singular persons comming with him from beyond the Seas into the Realme of *England*, taking his party and quarrell, in recovering his just Title and Right to the Realme of *England*, shall be utterly discharged, quit, and unpunishable for ever, by way of action, or otherwise, of or for any murther, slaying of men, or of taking and disporting of goods, or any other trespasses done by them, or any of them, to any person or persons of this his Realme against his most Royall Person, his Banner displayed in the said field, and in the day of the said field, &c.

[i] Grafton, p. 647. & 48 Hal. 3. R. 3. f. 55. 56 See Hosshed. Stow, Speed, & Batons Henry 7.

Which battell though it were just, and no Treason nor Rebellion in point of Law in those that assisted King *Henry the* 7th. against this Vsurper; yet because *he killing of men, and seising their goods in the time of Warre, is against the very fundamentall Lawes of the Realme*, they needed an Act of Parliament to discharge them from suits and prosecutions at the Law for the same: the true reason of all the forecited Acts of this nature, which make no mention of pardoning any Rebellions or Treasons against the King, (for they deemed their forementioned taking up of Armes no such offences) but onely discharge the Subjects from all suites, actions, and prosecutions at Law for any killing or slaying of men, batteries, imprisonments, robberies and trespasses, in seising of Persons, Goods, Chattels.

What our Princes and State have thought of the lawfulnesse of necessary Defen-

ſive Warres of Subjects againſt their oppreſſing Kings and Princes, appeares by thoſe aides and ſuccours which our Kings in former ages have ſent to the *French*, *Flemmings*, *Almaines*, and others, when their Kings and Princes have injuriouſly made Warres upon them, and more eſpecially, by the publike ayde and aſſiſtance which our [i] *Queene Elizabeth* and *King James* by the publike adviſe and conſent of the Realme, gave to the *Proteſtants in France, Germany, Bohemia, and the Netherlands againſt the King of France, the Emperour, and King of Spaine*, who oppreſſed and made Warre upon them, to deprive them of their juſt Liberties and Religion, of which more hereafter. Certainely, had their Defenſive Warres againſt their Soveraigne Princes to preſerve their Religion, Liberties, Priviledges, beene deemed Treaſon, Rebellion, in point of Law; *Queene Elizabeth*, *King James*, and our Engliſh State, would never have ſo much diſhonoured themſelves, nor given ſo ill an example to the world, to Patronize Rebells or Traitours; or enter into any ſolemne Leagues and Covenants with them as then they did, which have been frequently renued and continued to this preſent.

[i] *Speeds Hiſt. p. 1192. to 1197 l. 36. 1237. Grimſton. Hiſt. of the Netherlands, l. 10. p. 611. 612. &c. and Imperiall Hiſt. p. 730. to 866.*

And to deſcend to our preſent times; our *King Charles* himſelf hath not onely (in ſhew at leaſt) openly aided the *French* Proteſtants at *Ree* and *Rochel* againſt their King who warred on them; the *Germane Princes* againſt the Emperour; the *Hollanders*, and *Prince* of *Orange*, (to whoſe Sonne hee hath married his eldeſt Daughter) againſt the *Spaniard*, and entred into a ſolemne League with them, (which hee could not have done in point of Law, Iuſtice, Honour, Conſcience, had they beene Rebells or Traytors, for ſtanding on their guards, and making defenſive Warres onely for their owne and their Religions preſervation;) but likewiſe by two ſeverall publike [k] *Acts of Parliament*, the one in *England*, the other in *Scotland*, declaring, the *Scots late taking up Armes againſt him and his evill Counſellors, in defence of their Religion, Laws, Priviledges, to be no Treaſon, nor Rebellion; and them to bee his true and loyall Subjects (notwithſtanding all aſpertions caſt upon them by the Prelaticall and Popiſh Party) becauſe they had no ill or diſloyall intention at all againſt his Majeſties Perſon, Crowne, and Dignity, but onely a care of their owne preſervation, and the redreſſe of theſe Enormities, Preſſures, grievances in Church and State, which threatned deſolation unto both.* If then their ſeizing of the Kings Fortes, Ammunition, Revenues, and raiſing an Army for the foreſaid ends, hath by his Majeſty himſelfe, and his two Parliaments of *England* and *Scotland*, beene reſolved and declared to be no Treaſon, no Rebellion at all againſt the King; by the very ſame, (or better reaſon, all circumſtances duely pondered) our Parliaments preſent taking up Armes and making a Defenſive Warre for the endes aforeſaid, neither is, nor can be adjudged Treaſon or Rebellion, in point of Law or Iuſtice.

[k] See the acts of Pacification and Oblivion in both theſe Kingdomes.

In fine, the *King* himſelf in his [l] *Anſwer to the 19. Propoſitions* of both Houſes, *June* 3. 1642. Confeſſeth, and calleth God to witneſſe: *That all the Rights of his Crowne are veſted in him for his Subjects ſake: That the Prince may not make uſe of his high and perpetuall power to the hurt of thoſe, for whoſe good he hath it; nor make uſe of the name of publike Neceſſity, for the gaine of his private Favourites and Followers, to the detriment of his people; That the Houſe of Commons may impeach thoſe, who for their owne ends, though countenanced with any ſurreptitiouſly gotten Command of the King, have violated that Law, which he is bound (when he knowes it) to protect, and to protection of which they were bound to adviſe him*, at leaſt, Not to ſerve him in the

[l] An exact Collection of all Remonſtrances, &c. p. 329. 331.

Contra

Contrary (let the Cavalleers and others consider this:) *and the Lords being trusted with a Judiciary power, are an excellent screene and banke betweene the King and people, to assist each against any Incroachments of the other; and by just Judgements to reserve that Law, which ought to be the Rule of every one of the three.* Therefore the power Legally placed in both *Houses*, Being more then sufficient to prevent and restraine the power of Tyranny; by his Majesties owne Confession; it must needs be such a power as may legally inable both Houses, (when Armes are taken up against them, by the King or any other, to subvert Lawes, Liberties, Religion, and introduce an Arbitrary government;) not onely to make Lawes, Ordinances, and Assessments, but likewise to take up Armes to defend and preserve themselves, their Lawes, Liberties, religion, and to prevent, restraine all forces raysed against them, to set up Tyranny; else should they want not onely a more then sufficient, but even a *sufficient* necessary power, to *prevent and restraine the power of Tyranny*; which being once in armes cannot bee restraned, prevented, repulsed, with Petitions, Declarations, Lawes, Ordinances, or any Paper Bulwarkes and Fortifications, or other such probable or possible meanes within the Parliaments power, [m] *but onely by Armes and Militarie Forces*, as reason and experience in all Ages manifest.

[m] *Alber. Gentil. de Jure Belli*, li. 1. ca. 13. 14. 15.

From all which pregnant punctuall domesticke Authorities and resolutions of Ancient, Moderne, and present times, I presume I may infallibly conclude; That the Parliaments present taking up necessary Defensive Armes, is neither, Treason, nor Rebellion, in iudgement of Law, but a iust and lawfull Act, for the publicke benefit and preservation of King, Kingdome, Parliament, Lawes, Liberties, Religion; and so neither their Generall, Souldiers, nor any person whatsoever imployed by them in this War, or contributing any thing towards its maintenance, are or can be Legally indicted, prosecuted, or in any manner proceeded against as Traitors, Rebels, Delinquents against the King or Kingdome; and that all Proclamations, Declarations, Indictments, or proceedings against them, or any of them, as Traitors, Rebels, or Delinquents, are utterly unlawfull, iniust, and ought to be reversed as meere Nullities.

[a] *Gratian can. sa 23. qu 1. 2. 3* and the Canonists in their Glosses on that Text. *Summa Angelica & Rosel. Til Tol Arto. Cortes. Reper. in Abstem tis. Bellam; Jacob. Spidg & Io. Calvin. Lexi. Iurid. Tit. Bel. Matt Lauden de Bell. Tract. Alber. Gent. de jure belli Petrinus Belli de Re militar. & bell. tract. De Iure belli B. g. Hugo, 1. 99. Hugo Grot. de Iure Belli et Pacis.*

It would be an infinite tedious labour for me to relate, what Civilians and Canonists have written concerning Warre, and what Warre is just and lawfull, what not: in briefe, they all generally accord; [n] *That no Warre may or ought to be undertaken out of covetousnesse, lust, ambition, cruelty, malice, desire of hurt, revenge, or for booty: propter prædam enim militare peccatum est*; Whence *John Baptist, Luke* 3. 14 have this answer to *the Souldiers who demanded of him, what shall we doe? Doe violence to no man: neither accuse any man falsly; and be content with your wages. Ne dum emptus quæritur, prædo grassetur.* Which prooves the Warres of our plundring, pillaging Cavalleers altogether sinnefull and unjust: And that such a Warre onely *is just, which is waged for the good and necessary defence of the Common-wealth, by publike edict or consent; or to regaine some thing, which is unjustly detained or taken away, and cannot otherwise be acquired: or to repell or punish some injury; or to curbe the insolency of wicked men, or preserve good men from their unjust oppressions*; which Warres ought onely to be undertaken out of a desire of Peace; as they prove out of *Augustine, Gregory, Isidor Hispalensis*, and others. In one word, they all accord; *That a necessary defensive Warre to repulse an Injury, and to preserve the State, Church, Comm-wealth, Freedomes, Lives, Chastities, Estates, Lawes, Liberties, Religion, from unjust*

[n] *Gratian can. sa 23. qu 1. 2. 3* and the Canonists in their Glosses on that Text. *Summa Angelica & Rosel. Til Tol Arto. Cortes. Reper. in Abstem tis. Bellam; Jacob. Spidg & Io. Calvin. Lexi. Iurid. Tit. Bel. Matt Lauden de Bell. Tract. Alber. Gent. de jure belli Petrinus Belli de Re militar. & bell. tract. De Iure belli B. g. Hugo, 1. 99. Hugo Grot. de Iure Belli et Pacis.*

unjuſt violence, is, and ever hath beene lawfull by the Law of Nature, of Nation; yea, **By all Lawes whatſoever**, *and the very dictate of Reaſon: And that a neceſſary defenſive Warre, is not properly a Warre, but a meere Defence, againſt an unlawfull Violence; And therefore muſt of neceſſitie be acknowledged lawfull; becauſe directly oppoſite to, and the onely remedy which God and Nature have giuen men againſt Tyrannicall and unjuſt invaſions, which are both ſinnefull and unlawfull. And ſo can be no Treaſon, no Rebellion, no crime at all, though our Princes or Parents be the unjuſt aſſailants.* Of which ſee more in *Hugo Grotius, de Iure Belli*, l. 2. c. 1.

I ſhall cloſe up the *Civillians* and *Canoniſts* Opinions touching the lawfulneſſe of a Defenſive Warre, with the words of *Albericus Gentilis*, Profeſſor of Civill Law in the Vniverſitie of *Oxford*, in *Queene Elizabeths* Raigne, Who in his learned Booke, *De Iure Belli & Pacis*, Dedicated to the moſt illuſtrious *Robert Devoreux Earle of Eſſex*; (Father to the Parliaments preſent Lord Generall:) determines thus, *Lib.* 1. *ca.* 13 *pag.* 92. &c. 'Although, I ſay, there be no cauſe of warre from nature, yet 'there are cauſes for which we undertake warre by the conduct of nature; as is the
[a] *Cle. 2. de Sent.* '[a] cauſe of Defence, and when warre is undertaken, becauſe ſomething is denied to 'to be granted, which nature it ſelfe affords, and therefore becauſe the Law of nature 'is violated, Warre is undertaken. We ſay there is a three-fold Defence, one Neceſ-'ſary, another Profitable, a third Honeſt; yet wee ſhall deeme them all Neceſſary.
[b] *Bal. 3 conſ 458. & 5. conſ. 405* '[b] He who defends himſelfe, is ſaid to be neceſſitated, neither will *Baldus* have us 'diſtinguiſh, whether he defend himſelfe, his goods, or thoſe under his charge, whe-
[c] *Clar. §. Homicidium.* 'ther neere, or remote; His defence is neceſſary, and done for neceſſary defence, a-
[d] *Bal ad. d. l. 32. loc Iaſ.* 'gainſt whom an armed enemy comes, and his againſt whom an enemy prepares him-
[e] *Dec. l. ut Vin* 'ſelfe: and to ſuch a one the ſame [d] *Baldus* truly teacheth, ayde is due by compact,
Ap. Mutr. 'whom others likewiſe approve [e]. This warre we may ſay, was anciently undertaken againſt *Mithridates*, and againſt his great preparations. Neither ought wiſe 'men to expect, till he had profeſſed himſelfe an enemy, but to looke more into his 'deeds, then words: Thus whiles we ſay neceſſity, we ſpeake not properly, but we
[f] *Phil. de Principe.* 'underſtand, that neceſſity which is not rare in humane affaires, and hath wont to bee 'called needs: which yet preciſely is not that true neceſſity, &c. [f] It is a moſt unjuſt 'conflict, where the one ſide being agent, the other is onely patient. There is a juſt de-'fence, and ſlaying, although the ſlayer might flee without danger, and ſo ſave him-'ſelfe, whether the ſlayer who defends himſelfe be of that condition, that it would 'be a diſgrace to him to flee, or whether it would be no diſgrace. [g] Which opini-
[g] *Clar. §. homicidium.* 'ons are received in the cauſes of private men; and to mee are much more approved in publike cauſes. [h] Defence even in Bruites is a Law of nature: [i] it is perſwa-
[h] *L. 3. de Iuſt. l. 4 adle. Aq. Ceph. conſ. 711* 'ded and conſtituted in us, not by opinion, but by a certaine imbred faculty: and
[i] *Cic. 2. Iuci. 121 fa. 3.* 'it is a neceſſary Law; for what is there (ſaith *Cicero*) that can be done againſt 'force, without force? This is *the moſt approved above all Lawes.* [k] *All Lawes, all*
[k] *c. 3. de ſe exc. c. 18 de Homicid.* '*Rights permit to repell force with force.* [l] *There is one Law and that perpetuall, to*
[l] *Ammia 23* '*defend ſafety by all meanes.* [m] *All meanes are honeſt of preſerving ſafety: this, rea-*
[m] *Cic. pro Milo.* '*ſon to the Learned neceſſity to Barbarians, cuſt me to Nations, nature it ſelfe to*
'*wilde Beaſts, hath preſcribed; and this is no written, but borne, or native Law.* Like-
'wiſe, to defend our Eſtates, is a neceſſary defence, and this is a juſt cauſe of defen-
'ling, if wee bee aſſaulted by warre, though wee our ſelves have demerited the
'warre: which things others, and *Paulus Caſtrenſis* have taught. And it will fol-

low,

low and adde this reason; because the Law or Force of warre is not ended by obtaining the things first demanded; but walkes according to the conquerers pleasure.
[n] Who is content to repay so much revenge onely as he hath received wrong? saith *Augustine*, and all know it. This arbitrary power all not subdued may justly decline, and therefore defend themselves against it with Armes. Witnesses, [o] Iudges who are enemies are repelled, although they against whom they proceed gave the cause of the enmity. [p] *To one in Armes he gives all things, w'o denies just things:* said *Cæsar*. Neither doe we heare make question of that blamelesse moderation, where there is no superior. These things therefore are avoyded: and therefore the cause of *Romulus* shall be said right to me, who defended himselfe by warre against the invading *Sabines*, albeit he had given them cause of warre and offence, by the rape of their women. [q] *The force of necessity is so great, when men are pressed with Armes, that those things which are unjust may seeme most just*; as *Bodin* well, [r] *Warre is just, to whom it is necessary; & pia arma, quibus nulla nisi in armis relinquitur spes:* and Armes are pious to those to whom no hope is left but in Armes. Extreame necessity is exempted from all Law. And yet I restraine not the present definition, to extreame necessity, or take extreame according to the condition of mens affaires: for be it so, let it be no necessitie, which may be no necessity; *Romulus* might have avoyded warre by restoring the ravished women; yet he might likewise defend himselfe against the enemies even soone after marching against him. I stay not in this definition: for that is a question belonging to Citizens. [x] He who being banished may be hurt without danger, yet he may defend himselfe.

n *Aug.* 19. con. Fau.
o *Iason.* l. 15. l. de iure.
p *Con. reg. peccatum.* p. 2. §. 9.
q *Bodin.* 5. de Rep. 5.
r *Livie* l. 8.
x *Costr.* l. 1. de Iust.

CHAP. XIIII. *De utili Defensione:* He proceedes thus,

I Call that a profitable defence, when we move warre, fearing least we our selves should be warred upon: [s] no man is sooner oppressed then he which feares nothing, and security is the most frequent beginning of calamity. This first. Next, we ought not to expect present force, it is more safe if we meete that which is Future. *There is more hope and more courage in him that infers force, then in him who repels it:* he hath more courage who inferres danger, then he who repulseth it, [t] *Livy* and *Vegetius*: if the enemie should once prevent, all things are disturbed with feare; it behoves them therefore (saith [x] *Nicephorus*, an historian of no contemptible authority) who would live without danger, to meete with, and prevent impendent evills, and not to delay or expect, that thou mayst revenge the received injury with danger, if for the present thou maist cut out the root of the growing plant, and suppresse the endeavours of an enemie who thinkes ill. And [y] *Suidas*, yea *Demosthenes*; warre is not to be delayed but urged, least being first injured, we be compelled to repulse force.* This (as the Latin *Demosthenes Cicero* saith) is likewise a disgrace, that if thou mayst prevent future, thou wouldest rather redresse Present evils. That rude youth likewise (so hath nature it selfe prescribed this Law) [z] I would rather looke to our selves, then I would be revenged having received injury: [a] But *Philo* most excellently, that we presently slay a serpent at the first sight, although he hath not hurt us; nor perchance will hurt us; so carefull are we of our selves before he move himselfe. Am I not over-tedious to thee in naming these Authors, which yet are none of ours? But the consent of various and many authors is great reason, &c. Neither yet omit I,

s *Pater.* l. 2.
t *Liu.* 21 28.
u *Veget.* l. 3.
x *Hist.* l. 5.
y *Dem.* 1. ad *Arist.* g.
* *Dio.* l. 45.
z *Terent.* 4. *Eunu.* 6.
a *Philo.* de spe. Leg.

'things held in lieu of proverbes, and therefore prove much what they ſignifie.
[b] Perſ. Sat. 3. 'b *Meete the approaching diſeaſe. Withſtand beginnings; elſe medicines are provided over-*
Ovid. 2. de 'late. *Neglected fires are wont to get ſtrength.* Behold ſomething out of the Au-
Art. Horat. 'thors of Law: c *It is better to keepe Lawes unviolated, then afterwards to ſeeke remedy,*
ad Loll. Ep. 1. 'd *It is lawfull to prevent: One providing to offend, I offend lawfully*; and others of this
[c] C. lib. 2. Tit. 'nature, which are more defined to humanity, and approved by mens judgements.
41. l ul. l. Tit. 'e No man ought to expoſe himſelfe to danger: no man ought to expect himſelfe to
27. l. 1. & C. 'be ſmitten or ſlaine unleſſe he be a foole. We ought to meete the offence not onely
T. de Sica. l. 1. 'which is in act, but that likewiſe which is in poſſibility to act. Force is to be repelled
[d] Bald. 4. conſ. 'and propulſed with force; therefore not to be expected; in which expectation there
311 Faſ. l. 3. de 'are alſo both other the foreſaid certaine evils, and that likewiſe which is mentioned
Iuſt. 'in the cauſes of private men, leaſt perchance by giving the firſt ſtroke we be ſlaine; or
[e] Bal. 1. Conſ. 'leſt we yeeld by flying, and be oppreſſed lying downe. But not to flye is to repell
369. 4. 312. 'force: all theſe things are cleare, and tried, and moſt apt to warlike tractates.
Alex 2. 144. 'What followes, hath ſome doubt, when the thing may ſeeme to come to that paſſe,
Cla. §. Homici- 'that we muſt now run to this profitable defence. [f] A juſt cauſe of feare is required, ſuſ-
dium, Zaf. l. ut 'picion is not ſufficient. Now [g] a juſt feare is defined, a feare of a greater evill, and
vim. 'ſuch as may deſervedly happen unto a conſtant man. But here in this great cauſe of
f Dec. Conſ. 'Kingdomes, a feare that no dammage ſhould happen although not very great, or if
603. 'there be an evident cauſe of feare although the danger be not true, but the cauſe one-
[g] p. l. 5. 6. quod 'ly of feare juſt, is ſufficient: but not when a man feares that he ought not, &c. But
met. can. 'concerning prevention there are notable things in [i] *Gellius*. In all things to be taken
[h] De damn. 'heed of, there is not the ſame cauſe; neither in the affaires and actions and Offices of
inf. l. 27. loc. 'humane life; or of taking, or deferring, or revenging, or bereaving. To a gladiator,
i Gell. l. 7. c. 3. 'ready to fight this lot of fight is propounded; either to ſlay, if he ſhall prevaile, or
'to be ſlaine if he ſhall give over. But the life of man is not circumſcribed with ſuch
'unjuſt untamed neceſſities, that therefore thou ought eſt firſt to doe the injury, which
[k] Cic. pro to. 'unleſſe thou ſhalt doe, thou mayeſt ſuffer. And *Cicero*; [k] who hath ever enacted this,
Quiſt. l. 5. c. 13 'or to whom can it be granted without the greateſt perill of all men, that he might
'lawfully ſlay him, of whom he might ſay he hath beene afraid, leſt he himſelfe might
'be ſlaine afterward by him? yet rightly, notwithſtanding, the *Mitileins* againſt the
[l] Thucid l. 3. 'Athenians. [l] *If we ſeeme injurious to any, if we have firſt failed, not tarrying till wee*
'*might plainely know, if they would doe us any hurt: he doth not rightly conſider: for if we*
'*had beene of equall power, we might ſafely lay ambuſhes for them againe, and we might*
'*delay: then he ſhould ſpeake truth: but ſince they have alwayes with them a power of*
'*hurting, it beſeemed us to have this power, that we might anticipate a defence.* Why
'againe doe we aske for *Bartoluſſes*, or *Baldu ſſes* with whoſe bare names we might
'reſt ſatisfied? and yet doe not more eſteeme the defence of a moſt noble Republick,
'yea of *Thucidides*, a moſt noble man, and the ſentence of a moſt wiſe man fortified
'with reaſon? And ſeeing there may not be one probable cauſe of feare, and generally
'nothing can be defined concerning it, here we ſhall onely ſay, that it hath alwayes
'beene very conſiderable, and at this day, and hereafter it is to be conſidered, that po-
'tent and ambitious Princes may be reſiſted, for they being contented with no bounds
[m] Zonarus. 'will at laſt ſometime or other invade the fortunes of all men. [m] Thus the *Romans*
[n] Pauſanias, 'move warre againſt *Philip*, leſt *Greece* being ſubdued, he ſhould firſt make warre
l. 1. 'upon them. Thus [n] *Lyſimachus*, when *Demetrius* had gotten the Kingdome, fearing

leaſt

‘leaſt he ſhould provoke him, firſt moved warre, for he knew that *Demetrius* had
‘it from his father, alwayes to thinke of promoting the Empire. Thus the ° *Lacede-* °*Hero lib.7.*
‘*monian* Embaſſadors, move the King of *Sicily* to warre, becauſe all the reſt of the
‘*Gracians* being overcome by *Perſa*, he might in like manner ſtirre up ware againſt
‘the *Siculi*: Men ſay, *by helping us thou maiſt defend thy ſelfe.* Thus the P *Lacademoni-* P *Xenop.5.*
‘*ans* themſelves, perſwaded by the *Acanthi* tooke up warre againſt the *Olynthis*: *Græc.*
‘who by conquering their neighbours every where, and proceeding alwayes to fur-
‘ther parts, they made no end of warres and of encreaſing their dominion. Thus the
‘° *Campani* for the *Fidicini* againſt the *Samnites*, and they ſay. *We have fought in word* q *Liv. lib.7.*
‘*for the Fidicini, in deed for our ſelves: when we ſaw a neighboring people, to be ſet upon*
‘*by the wicked plundering of the Samnites: and when the Fidicini had beene inflamed,*
‘*that fire would hereafter be transferred upon us: which alſo* r *Hermocrates* a juſt man
‘of *Syracuſe* doth any of us thinke, that a neighbour further off being already overcome r *Thuc. lib.6.*
‘*the calamity will not come on him alſo?* Thus ſ *Perſeus*, thus *Metridates* did move
‘and call in others againſt the power of the *Romans*: for neither are occaſions of ſ *Salu. frag:*
‘warre wanting to thoſe that aſpire to the Empire, and now they are hated for their
‘power. Which thing t *Appius* ſomewhere ſaith to thoſe his *Romans*; and it ap- t *Dion lib.9.*
‘peares moſt true; for by ayding their confederates and friends, preſently they got the
‘Empire of the whole world. But to omit theſe manifold examples, which even
‘u *others* have thus noted, and which do thus declare to us the Law of Nations, which
‘we ſeeke; might not all men moſt juſtly withſtand the *Turke* on that ſide, and the u *Bod. 5. de*
‘*Spaniard* on this, meditating dominion every where and plotting it? for indeed *rep. ult.*
‘the *Turke* wrongs not many, nor yet the *Spaniard*, neither can the one or other doe
‘it; but they both doe injury to ſome, and he that doth wrong to one, threatens many:
‘ſhall warres themſelves be expected? we have heard of the *Turkes* before, and we
‘all ſee it: if any one diſcernes it not of the *Spaniards*; he may heare of *P. Jovius*, x *P Syr.*
‘*that the nature of theſe are both impotent and greedy of bearing rule; and when they have*
‘*once crept in, endeavour alwayes by all meanes to attaine the higheſt power. Therefore*
‘*we ought to reſiſt; and it is better to beware that men encreaſe not too much in power,* y *Jou. lib.1.*
‘*then to ſeeke remedy afterwards againſt the mighty.* z *While the enemie is little, kill him.* z *Ari. 5. pol.*
‘Wickedneſſe leſt Tares grow, is to be cruſhed in the ſeed. Why are not theſe ſay- a *Hier. Epi. 2.*
‘ings of *Hierome* pertinent even here? We cannot joyntly reſiſt a common danger:
‘b a common feare unites even thoſe that are moſt divided and furtheſt off: and that b *Bal. 2. conſ.*
‘by the inſtinct of nature, and our c *Baldus* teacheth out of *Ariſtotle*; *This is the rea-* 26.6.
‘*ſon of Empyres, that they may not hurt*; as he, whoſoever he was, ſaid wel in *Dionyſius*, c *Dion l.6.*
‘and nothing more true, and uttered as it were from an Oracle, In the judgement of
‘*Bodin*: d *It is ſufficient to have power to hurt, and that which can deſtroy others, doe thou* * *Ovid. 5.*
‘*deſtroy firſt: as aptly here* the witty Poet; and truly it is very grievous, that we may pol- *Faſt Poſſe no-*
‘ſibly ſuffer an injury although we doe not ſuffer it: as e *Plutarch* ſpeaketh: and *cere ſat eſt;*
‘f *Baldus*, that it is lawfull to uſe meanes for reſiſtance: nor ought it to be in the pow- *Quodque po-*
‘er of an adverſary to hurt us if he would: and that we ought to conſider, that which *teſtatios per-*
‘hurteth, and that which can hurt. Even the continuing of concord among the ele- *dere, perde*
‘ments is this, by g equall proportion, and while in none, one is ſubdued of the other: *prior.*
‘° And this is this, which that moſt wiſe, moſt deſirous of peace, and father of peace, d *Plut. Pomp.*
‘*Laurencius Medices* procured alwayes, that the affaires of the *Italian* Princes ſhould e *Bal. 2. conſ.*
‘be balanced with equall weights, whence both *Italy* might have peace, which both 195.202.
f *Apul. de*
mund.
g *Polit. 4. Ep. 1*
Guic lib. 1.

'it had whiles he lived, and was the preſerver of this temper; and which peace ceaſed
'when he deceaſed, and that temperature. The great off-ſpring of *Medices*, was a
'great ſafegard both to his owne City and the reſt of *Italy*: doth he not as yet indea-
'vour this, that one ſhould not be able to doe all things, and all *Europe* come under the
'command of one? unleſſe ſome be able to reſiſt the *Spanyard*, *Europe* will certainely
[i] *Anſ. Eclog.* 'fall. [i] If any will pull a middle ſtone out of the wall, upon which all relies, the reſt
[h] *Polyb. lib. 2.* 'being carried together will follow. [h] No, this muſt never be permitted, that the
'dominion of any ſhould grow ſo great, as neither to doubt before ſo much as of moſt
'manifeſt injuſtice, which *Polybius* ſaith, and ſaith againe: whence *Hero* therefore
'ayded the *Carthaginians* againſt the *Mercenaries*, leaſt the *Carthaginians* being op-
[i] *Liv. l. 42.* 'preſſed, the Romans ſhould be able to doe all things. Thus [i] *Livie* of the diverſe
'conceits of men upon the war of the *Romans*, and *Perſeus*, that ſome favored him,
'ſome them, but there was a third part, the beſt and moſt prudent, who would have
'neither part to become more powerfull, the other oppreſſed, for ſo themſelves ſhould
'be in the beſt condition, alwayes protecting them from the injuries of the other:
'And theſe things ingeniouſly, *Marcus Cato* for the *Rhodians*: Who thorow hatred to
[k] *Goklim l. 7.* 'the *Romans*, by their good will at leaſt, or wiſhes had favoured *Perſeus*, *They would*
83. 'not that we ſhould have conquered the King: but alſo many other people, and many Na-
'tions; and partly not for reproach ſake, but becauſe they feared, that if there were no man
'whom we ſtood in awe of we might doe what we liſt, and every one of us if any thinke any
'thing to be attempted againſt his owne eſtate, doth even with his ſtrength contrarily endea-
'vour that it be not attempted againſt him. This the Embaſſador of *Perſius* had thus diſ-
'cuſſed before the *Rhodians*, that they ought to endeavour, that the right and power
'of all things be not devolved to one people. *Cato* adds, that their will ought not
'to be puniſhed ſo much, becauſe it ought to be diſcerned more certainely. [l] *Cæſar*
[l] *Dion. l. 38.* 'doth not contradict, who thus diſputes of raiſing of warre againſt King *Arioviſtus*,
'that he ought to be puniſhed before he became great, or ſhould doe any evill, even
'becauſe he had a thought to doe them hurt. Neither ought this to be underſtood of
* L. 225. d. 'the naked thought, and bare will; but of that which hath aſſumed the Act, declared
v 8. 'in another* place; that King was now fearefull to the *Romans* in *France*, and his Armes
'threatned danger: *Cæſar* therfore wiſely and juſtly thought that there was no further
'delay to be made, but that he might reſtraine Armes with Armes. The [n] *Switzers* late-
[n] *Fou. l. 34.* 'ly very wiſely, that they will favour neither the *French* nor Emperor, but would
'keepe a league with them both, until their Armies ſhould not be hurtful to the *Helve-*
'*ti n* Common-wealth. But I conclude, the defence is juſt which prevents dangers
'already meditated of, already prepared; and alſo not thought upon, but very likely,
'poſſible: yet neither this laſt ſimply; or would I call it juſt, to endeavour this war,
'as ſoone as ever any ſhould be made too potent; which I doe not affirme. For what
'if any Princes power ſhould be increaſed by ſucceſſions, by elections; wilt thou
'trouble him with warre, becauſe his power may be dangerous to thee? Another
'thing therefore muſt be added concerning Iuſtice. We will adde to others, who
'what they have thought of a juſt war, attend.

CHAP.

CHAP. XV. *Of Honest Defence.*

IT remaines to speake of honest defence, which is undertaken without any feare of danger to us, fought for no want of our owne, for no profit, but onely for other mens sakes, [a] and it resteth upon this foundation, that (as Marcus *Tullius* saith) nature hath ordained among men affinity, and love, and good will, and the bond of good will, and that the law of nations is placed in the society of men, which therefore is called by *Cicero* also, [b] *Civill*. [c] Thus *Verilie* the *Stoickes* would have the City of the whole world to be one, and all men to be commoners, and townesmen; and like one Heard feeding together in a Common ground. [d] All this that thou beholdest, wherein heavenly and earthly things are contained, is one; and we are members of one great body, and the world it selfe is one [e] body. But Nature hath made us allyed, seeing she hath begotten us of the same, and in the same, also endewed us with mutuall love, and hath made us sociable. [e] And this our societie is most like the joyning of stones, in a wall; which would fall, if the stones did not withstand, and uphold one another, as *Seneca* excellently; and which as [f] *Gellius*, consisteth, upholden as it were, with a mutuall contrariety and support. [g] This is the desagreeing concord of things, as *Horace* speakes, and we also before. And now thou hearest that all the world is one body, and all men are members of this one body, and thou hearest the world to be an house, and to be a City; which heare againe, for they are beautifull. *The world is the greatest house of things*, thus *Varro*. [h] *Man is a sociable creature, and being borne for the good of all, lookes upon the world as one house*: thus *Seneca*: againe *Lactantius* saith, the world is a Common-wealth, having one forme of government, and one Law; [k] *Philo*, there is one Commonwealth of all and a common City of all. [l] *Tertullian*, *Minutius*, and also in *Aristotle*, There is one great City: what an harmony is here of wise men? Adde touching Society that of *Cicero*; *Society in the largest extent, (which though it be often sayd we must repeate more often) is of men towards men, more inward, of those that are of the same Countrey; nearer of those that are of the same City*: and in another place: *We are so borne that there may be a certaine Societie between all; but greater as any one is nearer: Citizens are better than strangers; kindred than Forriners*. And thus doth [o] *Augustine* note there societies; the first of the household, the second of the City, the third of the world, and saith, all the Nations in the world are joyned together by humane societie. But what is this society and conjunction? Among the good there is as it were a necessary benevolence, which spring of friendship, is constituted of nature; but that same goodnesse belongs also to the multitude; for vertue is not inhumane, nor cruell, nor proud, which will not looke upon all people, writeth *Cicero*; and [p] *Ambrose*, the law of nature bindes us to all charity; that one should beare with another, as members of one body: and so also [q] *Baldus*, we are borne for our own and for strangers by the bond of Charity: those that say, care ought to be had of Citizens, deny it of strangers, these men take away community and society of mankinde. Also *Cicero*: which [r] *Lactantius* both citeth and hath approved. And the same *Cicero*. [s] It is a filthy opinion of them, who referre all things to themselves, filthy indeede, for man is borne

[a] *L. 3. de jus. & ju.*
[b] *Cic. 3. de fi.*
[c] *Plut. de Vi. Alex.*
[d] *Nicep. b. gr. li. 4.*
[e] *Sen. ep. 96.*
[f] *Gel. lib 6.*
[g] *Hor. ad Ico. ep. 1.*
[h] *Sen. ult. ben.*
[i] *Lact. de ira Dei. c. 10.*
[k] *Philo. lose*
[l] *c. Apol M fel.*
[m] *Arist. de mag.*
[n] *Cic. 3. de Of. ic Let.*
[o] *Aug. 19. de civ.*
[p] *Ambr. 3. de of. 3.*
[q] *Bal. de pet. do.*
[r] *Lact. 6 inst.*
[s] *Cic. 7. Att 2. Arist. 1 pol. 2.*

borne for ſociety, and it is his [n] duty to helpe others, and not live to himſelfe onely: and for this cauſe *Cicero* condemned the *Philoſophers*, becauſe while they lacked one kinde of juſtice, and (as [x] another holy man writes) fulfilled indeede the greateſt part of equity, not to hurt any, they offended againſt the other, becauſe they forſooke the ſociety of life, and ſo forſooke this part of juſtice, to profit when thou canſt; [y] Doſt thou not ſee how the world it ſelfe, the moſt beautifull of all workes doth binde it ſelfe with love? we are [z] bound by the Law of nature (ſo ſayes the interpreter of the Law) to be profitable every way: and the [a] ſame men deliver an equall defence of their owne and of ſtrangers, but ſpecially of confederates, from whom we muſt keepe off an injury; and that this defence is both of divine and humane law. [b] *Plato* thinkes, he ought to be puniſhed that keepes not back an injury offered to another. Now that which *Plato* and theſe Interpreters ſay of private Citizens we may very well apply to Princes and people: for what reaſon there is of a private man in a private City, there is the ſame in the publicke and univerſall City of the world, of a publique Citizen, that is, of a Prince, of the people of a Prince: [c] As a private man hath relation to a private man, ſo a Prince to a Prince, ſaith *Baldus*, [d] A man is a Citizen to a man in the greater City, and borne for mutuall ſuccour ſaith *Seneca*. And becauſe we are one body, if one member will hurt another member, it is meete the others ſhould helpe that which is hurt, becauſe it concerneth the whole, even that which hurteth, that the whole be preſerved. So men ſhould helpe men, for ſociety cannot be preſerved, but by the love and ſafety of the people. [e] *Veſpatian* cannot be approved who denies ayde, I know not to whom, upon this pretence, [ſ] becauſe the care of other mens affaires appertained not to him: for what good man is there who doth nothing but for his owne ſake? [f] *Cicero* againe, even to [g] *Lazius* King of *Perſia*, that he is not therefore juſt, becauſe he doth nothing unjuſtly, unleſſe alſo he defended the unjuſtly oppreſſed; and by that meanes they obtained helpe, and bands of Souldiers againſt the *Romans*: for it is not a ſtrange thing amongſt men for a man to defend the eſtates and ſafety of men. [h] *Cicero* had ſaid the ſame; *he ſhould have reſpect if not of the man, yet of humanity*, which is due to every one from every one, for this very cauſe, becauſe they are equally men: and humane nature the common mother of all men commends one man to another, [i] It is a noble example of the barbarous King of *Mauritania*: who, when he heard that his enemie *Alfonſo* king of Caſtile, was preſſed and almoſt oppreſſed by the Armies of his ſonne, hee ſent a hughe maſſe of gold unto *Alfonſo*, he himſelfe went over with a great Armie of Souldiers into *Spaine*, judging it a moſt unworthy thing that his Sonne ſhould expell his Father from his Kingdome; adding withall, that the victory obtained, he would be an enemie againe unto the ſame *Alfonſo*. What? doe I feare the *Barbarians*, enemies alſo, and bringing gifts? That the deed of an enemy ſhould be taken in the worſt ſence? doth [k] *Guiccardine* ſay truth; that theſe things are not done of any but in hope of ſome profit? The ſaying of *Guicciardine* is diſpraiſed by noble *Mountayn* in thoſe his Noble examples? I demand of what right it is? It is a queſtion, if any be bound by Law to defend another, when he can? and they ſeeme commonly to deny this, and the [l] Law ſometimes ſaith that we may without offence neglect other mens affaires: but our proper queſtion is; if any can thus juſtly defend another? [m] wherein no man denieth juſt defence, even for the defence of a ſtranger it is lawfull to kill another, by the opinion which is approved of all Doctors: [n] yea, the defence

[n] Gal. 6. & 1. petr. 4.
[x] Hier. Ep. 14
[y] Claud. 4. conſ. He.
[z] Rom. conſ. 420.
[a] Dec. conſ. 469 not l. 3. l. 5. de juſt.
[b] Plat. 9. de leg.
[c] Bal. 2. conſ 195.
[d] Sen. 1. 2. de Ira.
[e] Xiphil.
[ſ] Cic. 7. fa. 12.
[f] Procop. 2. perſ.
[g] Cicer. pro Quin.
[h] Iuſt. Gen. 3.
[i] L. 6. de Ex
[k] Lib. 21. de he. vel. ac. ve.
[l] Caſtr. l. 2. de juſt. Al. 7. 17. 27 Clar. f. q 87. & Homicidium: De conſ. 678. n Lib. 6. de app Iaſ. 3. de in. Dec. conſ. 691. Ceph. 712 Cuia. 10. obſ. 20.

c fence of him is approved, that neglects to defend himselfe, yea that refuseth to be de-
c fended by another; whether a friend defend him or another, even an enemie: and thus
c it is called the rule of humanity, and so [o] a benefit to be conferred often times upon
c the unwilling. So also there be many other definitions. Also they conclude by an ar-
c gument, not firme enough that way, in another question: that a man may take money
c for defending another, which he should receive dishonestly, if he were bound to de-
c fend him by law: for may not a servant get a reward from him whom yet notwith-
c standing he might not neglect without punishment? neither is it dishonestly given
c nor dishonestly taken, in way of thankefulnesse. [p] *So it is not ill taken of a Citizen from*
c *a Citie, nor by a sonne from a father: for truely it is manifest, that many things cannot*
c *be done without offence; and therefore if done they are worthy of rewards, yet not of pu-*
c *nishment, if they be not done. Againe, some things on the contrary neglected, indeed con-*
c *tract offence, but reformed they merit not glory, so* Bernard: *to which I adde a meane,*
c *that there be some things which being neglected contract offence, and fulfilled, deserve re-*
c *ward.* [q] But also even in the Court of conscience they will have a man to be bound to
c defend a man. [r] But conscience is the will of a good man, yea of the best: but they
c deliver this also even in the way of honesty: and we follow honesty here, and that
c arbitrement: [s] but both in Civill and Canon Law, against the rest *Bartolus* inclines
c thus: *Albericus, Ignems, Decius, Alciatus, Molineus*, so teach: and [t] *Baldus* ele-
c gantly, *that it is a fault to omit the defence of another; of himselfe, a treachery*: which
c also in another place he determines. *Plato* is also of this mind: and thus also [u] *Sira-*
c *cides*: *free him to whom injury is done, out of the hand of the injurious.* I also am of
the same minde, especially, if, which the forenamed interpreters adde, defence be
not made with the danger of the defender. [x] For no man is bound to put himselfe
in danger; no man is bound so to assist against a fire. [y] Otherwise thou heareſt *Con-*
stantine say, that they which live by the rule of Gods Law, account an injury done
to another, to be their owne. Behold that thus also he ayded the *Romans* against
Maxentius. Heare againe *Baldus* his Lawyer, he that defends not, nor resists an injury, is as well in fault, as he that forsakes his parents, or friends, or Country: and if
these be true in private men, how much more will they be in Princes? These mutually call themselves Cosens, Cosen-germans, Brothers. They are so much the more true in Princes, by how much if a private man defend not a private man, the majestrate remaines, that can both revenge the wrongs, and repaire the losses of private men, but there is none can peece up the injuries and hurts of Princes, but the same Prince, who after had rather apply a medicine to the evill, than hinder at the first that evill be not done. These things are true, but that also you may hold with [a] *Baldus* that although these were not true out of Philosophie of judgements, which is of things necessary: *they are certainely true from Philosophie of manners: which consists of things perswaded, which Philosophie also we follow in this whole Treatise. The Philosophie of Iudgements, permits a man to neglect even himselfe*, as *Baldus* writes, and if besides, as it falls out almost alwayes, another speciall cause be joyned to this generall rule of honesty, *it may come neerer to justice. Let the opinion verily be true for me, that this cause of honesty alone, perchance hath never moved any man to that honest defence.* [b] Guicciardines *mouth sayd truely, no Prince will make warre for Peasants, unlesse perswaded with desire of his owne gaine: yet that is ignominous* to Princes and favours not of justice: but I had rather concurre with *Leo* the *Philosopher*. We know very

[o] L. 39. dene. ge. 1. seqq.
[p] L. 5. quis. ma ad li per. Pla. 9. de leg.
[q] Iaſ. d. l. 3. Eug. conſ. 86.
[r] Bal. l. ul. c. de ju. de imp.
[s] Alc. l. conſ. 27. Mol. ad Dec. l. 3. de reg.
[t] Bal. 4. conſ. 111. l. 1. C. de ſer. fug.
[u] Eccle. 4.
[x] Bal. l. 1. de of. pr. vi.
[y] Nic. Cal. 7. hiſ. 29.
[z] Cic. 2. deoff.
[a] Bal l. 10. 12. c. de op. le.
[b] Guic. lib. 2.

very few to keepe true love, for its sake alone to be stirred up to succour those that are intangled in misery, but on the contrary side, that the number is very great of those that for hope of getting any thing, come to helpe the unworthy: which is a more mild saying, and I thinke more true. But I seeke another thing, it is compleate ju-
d *Ambr. 1 de off. 27. c. 5. 23. q. 3.* stice which defends the weake: so d *Ambrose*, and the Canon Law, and I seeke for that Iustice. The *Romans* also joyned this cause with others by which they were moved often times to make warre: e the defence of the *Lucans* (saith *Dionysius*) was
e *Dion. fol. de legis.* the manifest cause of the *Samnitic all* warre, which might have a shew of honesty, as common, and a Nationall custome of the Romans to ayde those that fled unto them: but the secret cause which did more urge, was, the power of the *Samnites* was great, and greater would it have beene, if the *Lucans* had beene subdued, so the reason of profit lyes hid: and therefore seemes not so good, as it is honest: and yet we call profitable also, good and just, and the one is made just by the other: therefore what
f *l. 5. qui ex ea. in po. ea.* if they be deare unto us whom we should defend? f *Vlpianus* saith, that for love and friendship, for no other reason defence ought not to be omitted. The defence of those that ought to be deare unto us, is from nature, witnesse M. *Tullius*. What, if our
g *Amb. de off.* allies and confederates? g He that keepes not of an injurie from his fellow when he
h *Liv. 31. 34.* can, is as well in fault, as he that doth it. *Ambrose*, and h even we our selves are hurt
i *e. de Repub. ult.* when our fellowes are hurt: as in *Livie*. i *Iohn Bodin* judgeth amisse, that an ally and a confederate is not bound to helpe his fellow, if there be no caution of helpe in the
k *Plut. Apoph.* league; and the contrary is now shewed by us, and also shall be shewed in the third booke. What if they be of the same stocke and blood? *Agesilaus* made warre against the *Persians*, that he might bring the Greekes of *Asia* into liberty. And the pettie
l *Iou. l. 23.* Kings of l *Germanie* by an old custome of the Nation, thinke it an haynous offence, not to be assistant to those that implore mutuall helpe: although there is there besides a certaine body of a Common-wealth: as it is reported long since, that there was of
m *Oros. l. 5. c. 2.* the *Achai*. What if of the same Religion? m Nations are joyned together by the tye of Religion, more than either by the communion of another law, or contract of a league: and therefore if we implore nature by communion, the law of Nations by covenant, the Common-wealth by lawes, by common Religion (the most powerfull thing of all) we implore the bowels of men and of the holy One, who is the head
n *Procop. 1. Pers. & Vand. l. 17. c. 57.* of that communion. n So there was warre with the *Persians*, because their fugitives were not delivered them, and they were not delivered by the *Romans*, who would not dispise the humble professors with them of the same religion, who fled from the *Persian* cruelty. Thus *Justinus* answered the *Persian*, that he could not but receive those of the Christian Religion, falling away to him from the *Persian*, who compelled them
o *Alcl. 38. §. Sacra. de V. O.* to forsake Christian Religion. And our writers doe thus resolve, that warre may be made if any converted to Christian Religion, should be oppressed by their Lords and that for the right of society contracted from conversion. What if neighbours?
p Cic. pro Planc. p for what? had I not very many, very just tyes of familiarity, of neighbourhood of country, of friendship to defend *Plancus*? saith *Cicero*. And here is our case q We are in danger if our neighbours house be on fire, for if fire have fiercely take hold of some houses, they will hardly be defended but that the next houses will b burnt, which was elsewhere in *Salust*, and now in *Ovid*. r *Fire that is neere is hardl kept off from houses: it is good that we abstaine from neere adjoyned places:* which verse are proverbiall in this thing; and proverbes adde some credit. This notes somethin

th

that as it is lawfull to pull our neighbours houſe downe, leaſt the fire ſhould come to us: ſand that queſtion of a [x] houſe infected is the ſame, although touching this it is anſwered contrary: [y] Yet the Houſe infected with Leproſie was pull'd downe. [z] And in many caſes it is ſo, that we may doe ill to others, that it be not ill with us. We muſt beware of all contagion, eſpecially of our neighbours: the ill contagions of a neighbouring People are hurtfull. [a] The *Romans* (ſaith *Florus*) as a certaine infection ranne over all, and taking in all the neereſt people, brought all *Italy* under them, and whatſoever Dominion they had. [b] Before fire is the vapour and ſmoake of the Chimney, *Syracides* alſo. So we ſee ſmoake from our neighbours fire, and will we not runne and put out the fire where it is? It is [c] written againe, that it is lawfull for any to helpe his neighbour againſt an injury, yea, he ſeemes to be partaker of a fault, who doth not ayde his deadly foe, even ſpeaking againſt *help, nor yet deſiring it*. Concerning which I have noted before, and will note further in the Chapter following.

[x] *Decia. Conſ.* 651.
[y] Levit. 14. L. 29 *ubi gl. de l. Aq:*
[z] *Ibo. l. 1.*
[a] Eccl. 22.
[b] *C. 6 de ſe. exc.*
[c] *Eug con* 90

CHAP. XVI. *Of ayding Subjects that are Strangers againſt their Lord.*

I Demand, if wee may juſtly defend Subjects alſo that are Strangers againſt their Lord? What if their cauſe alſo be unjuſt? [a] *Ambroſe* noteth thoſe three gods, *Iupiter, Neptune*, and *Pluto*, have thus Articulated, leſt upon their intrenching on one anothers juriſdiction, they might make Warre among themſelves: they ſhould not uſurpe the rule of the Sea, &c. [b] They ſay likewiſe, that we gods have this Law, none of us will croſſe the deſire of him that willeth, but wee yeeld alwaies one to another. Which being the fictions of very wiſe men, are applyed unto Princes of the earth. But even without any circumſtance at all, the *Corinthians* ſpeake thus to the *Athenians*: [c] We doe plainely deny that any is forbidden to puniſh his owne: for if thou ſhalt defend thoſe that have offended, even your owne Subjects will defend themſelves from you. Yet I thinke not Subjects of other men are altogether ſtrangers from that neereneſſe of nature, and union of Society, you doe alſo cut off the unity of mankinde, whereby life is ſuſtained, as excellently [d] *Seneca*. And if we make not Princes lawleſſe, tyed to no Lawes nor Conditions: It is neceſſary, that there be ſome to admoniſh them of their duty, and may hold them faſt bound; which reaſon I expounded in the ſecond Booke of Embaſſies. Neither will I heere infer any confuſion of kingdomes, or any inſpection of one Prince over another Prince: neither doe I ſuffer thoſe things to bee diſtinguiſhed, which are moſt firmely glued together by nature, I meane, that kinred with all, among all. Neither here otherwiſe may one Prince have inſpection over another Prince, but ſuch as may happen by every other Warre, wherein one Prince carries himſelfe as a judge both of himſelfe, and of another. If a queſtion were among private men, it were moſt unjuſt to goe to a Forraigne Prince about it. Alſo if there ariſe a difference betweene a private man and his Soveraigne, there are Magiſtrates appointed which may be ſought unto. But when the controverſie is touching the Common-wealth, there neither are, nor can be any judges in the City. I call that a publike matter, when ſuch, and ſo great a part of

[a] *Lib. 1. de Offi. 13.*
[b] *Euri. Hip.*
(c) *Thuc. l. 1.*
[d] *4. de Benef.*

the Subiects is moued, that now there is need of Warre againſt thoſe that defend themſelues by Warre. And as if thoſe ſhould come into part of the Principality of the publike, and are Peeres to the Prince, who can doe ſo much as hee. [e] Even as one King is ſaid to be equall to another, who can reſiſt another offering wrong, however greater, and more powerfull; although I ſay not theſe things of the Subiects themſelues, unleſſe it be in reſpect of Forraigne Princes, which will ayde the Subiect againſt their Soueraigne, and who can ayde them no otherwiſe then in a controuerſie, as I haue expounded, of the Common-wealth. [f] And indeede, if the Subiects be uſed more cruelly and unjuſtly, this opinion of defending is approued even of others, who both bring that laudable example of *Hercules*, the Lord of Tyrants and Monſters. There is alſo the example of *Conſtantine*, who ayded the *Romans* againſt *Maxentius*, as I noted before. [g] We defend Sonnes againſt injuſt Fathers. Adde now thoſe golden Sayings of [h] *Seneca*. That being cut off, whatſoeuer it was, whereby he did cleaue unto me, the Society of humane right is cut off. If he doe not impugne my Countrey, but is burdenſome to his owne, and being baniſhed my Countrey doth vexe his owne, yet ſo great naughtineſſe of minde hath cut him off: although it maketh him not an enemy, yet hatefull unto mee. And the reaſon of the duty which I owe unto *mankinde, is both more precious, and more powerfull with me, then that which I owne to one ſingle man.* Thus verily; or elſe we make all men forreigners to all Princes, if we determine that they can doe according to their pleaſure and luſt. Now what if the cauſe of the Subiect be unjuſt? The foreſaid Authors deny, that men ought to ayde uniuſt Forraigne Subiects, leaſt any by ſo ayding introduce the ſame Law into his owne Kingdome, which the *Corinthians* did before. Yea, [i] *Ariſtotle* thinkes, that neither a wicked Father is to be loued nor aſſiſted with helpe. But this is falſe of a Father, as I taught in a certaine Diſputation, perhaps it is more true, that thoſe may be defended of us by warre, who are unjuſt. For if it be a juſt warre which is to repulſe a wrong, although they that repulſe an injury, haue given occaſion to the warre: the ſame it ſeemes may be determined in the defence of others, even of Subiects, for the ſame reaſon. Surely there is that iniquity in Warre, that it will make the ſame man to pronounce law to himſelfe in his owne cauſe, or verily willing to pronounce it. Vpon which pretence another Prince may bring ayde on the contrary ſide, that things may more ciuelly be compoſed without warre. And this is that which [k] *Pyrrhus* did when he came to ayde the *Tarentines* againſt the *Romanes*; he admoniſhed them firſt, that they would by their owne endeauour put an end to the Controuerſie; although neither the *Romans* would not unjuſtly hearken unto the King; or becauſe they might deſeruedly ſuſpect him, as being ſent for by enemies, armed with enemies ready to fight for enemies, and of kinne to enemies. [l] Hee that ſtands armed with another, is ſaid to bring helpe and ayde unto him; neither is there neede to proue any thing againſt that at all. Even he that armes himſelfe, is beleeued to thinke upon warre. And [m] if he that is the friend of an enemie bee excluded from being a witneſſe, much more from being a Iudge. [n] For it is eaſier, if any be receiued for a witneſſe then a Iudge; [o] The friend of my enemy is not preſently my enemy, as neither my friends friend is my friend; but there is a great ſuſpition of them both, and of the friend of an enemy the more. But I returne to the queſtion. [p] We are bound both to defend juſtly unjuſt Sonnes againſt the cruelty of Fath

[e] *Ceph. 612.*

Cou. Regn. Pecca. par. p. 9. Bod. l. 2. de Rep. c. 5. & l. 5. c. ult. Cic. 3. de Off.

[g] *Bal. lib. 4. c. de iuſt. & ſubſt.*

[h] *Sen. ult. de Benef.*

[i] *Eth. 5. 9. Ceſar. 1. de ſi c. 4.*

[k] *Plu. Pyrrh.*

[l] *Crau. conſ. 224. Ceph. 57 Bal l. 1. de ſer. iug.*

[m] *Alex 7. conſ. 2. Ceph. 711.*

[n] *Iaſ l. 16. de Iuriſd. Cic. pro Com. Ceph 750.*

[o] *L. 47. de re iud 28. C. de noſc. te.*

[p] *Leonen. 103*

Father, or Servants against the cruelty of a Master; and we laudably indeavour that by fury (here is Warre) no not wicked men should be chastened and punished, for fury and warre have no measure. [q] And he that led by humanity or pitty, or any other approved and just cause, hath received another mans Servant, is not bound by the Statute of a corrupt Servant, and that reception is accompted in the nature of good, &c. [r] Even he is commended, who being angry with his servants committed them to be punished by another, this commendation being added, because he himselfe was angry. Therefore a good Prince will have the Liberty of rage against his own Subjects to be taken from him, being angry, as a good Father, as a good Master, and he will alwaies judge, *That Kingdomes were not made for Kings, but Kings for Kingdomes*, which is most true. This also of *Plato* availeth, that we ought to use Eloquence, chiefely to accuse our friends, to whom it is the best, thus to be drawn from future evils. And so I thinke that we may defend unjust Forreigne Subjects, yet to this end onely, for the keeping off immoderate cruelty and too severe punishment: [s] *Seeing it is not inhumane to doe good to those that have offended.* Yet I dare affirme, that this reason of bringing helpe doth seldome stand alone, but that another of necessity and profit may be pretended, or truely shewn, as is said before. Behold now is the greatest question: *If the English have justly ayded the* Hollanders *because their cause was unjust, & the* Hollanders *were even now Subjects to the* Spaniards? both which notwithstanding are false. It was said, that a Warre was to bee undertaken upon that occasion, that a good Peace might be obtained of the *Spaniard*, which otherwise, as is thought, could not have beene had: [t] *And so truly Warre is lawfully undertaken, as* [u] *our men alledge*: And the most wise reason of the Physicians maketh for it, That if any Feaver be slow which holds the body, and which yeelds to no cure, then the Disease is to be changed, yea, to bee augmented and heightned. For when it doth not receive cure for the present as it is, it may receive that cure which is future. But even Warre might have beene undertaken without that evill of an unfaithfull Peace. As there be many bonds of neereneese between the *English* and the *Hollander*: the ancient friendship with the Dukes of *Burgondy*, the familiarity of these people, and the old Consanguinity; all the rest, which are noted at the end of the former Chapter. And therefore with *Cicero*, [x] *They thinke not that the nocent are not to be defended, if they be the friends of a good man.* Adde one thing of great moment, that the *Hollanders* overcome in Warre, should altogether change their condition, and we see it in the conquered part, being for the most part, cast downe from their ancient Liberty, and for the most part oppressed with Garrisons, are governed now onely at the pleasure of the Prince. But this our Neighbours cannot endure. [y] Neither is any other forbidden to favour Libertie. But [z] it much behoveth Neighbours to have a Neighbour. [a] For if one man hath neede of another man, what shall we say that one Neighbour is to another, saith [a] *Pindarus*, and [b] *Callimachus*: *Ill Neighbours are odious to mee*, and [c] some wise *Hebrew*, *The worst of all diseases is an ill Neighbour*: And another of the same Nation, *Woe to the wicked, and woe to his Neighbour*. And where may [d] Morall Fables be silent? [e] *An evill neighbourhood is like a misfortune*; *The vicinity of great Men is alwaies to bee shunned of the weaker*; [f] *Good men receive good things from good Neighbours, and evill Men, evill things*, &c. So [*] *Plato*, and so *Themistocles*; When hee sold a piece of ground, hee commanded

(q) *L. 5. Bal l. 4. C. de ser. Cor.*
(r) *Plut. quo pact. li. Hecto. ep. 9.*
[s] *Alex l. 10. Sol. mu.*
[t] *Celsus l. 5. de iust.*
[u] *Celsus 3. c. 9 Hipp. de loc. in hom.*
[x] *Cic. profs.*
(y) *l. 3. de bo. li. ex.*
[z] *L. 54. de Leg.*
[a] *Natal. Alex cors. 197.*
Bal l. 9. C. de Pa. in n. 7.
[b] *Heb. Apoph. 1. c 3.*
(d) *Hes. l. 05. op.*
(e) *Eccl. 37. c 7 Alc. Emb. 163. Plut. Euth.*
[*] *Plu. Apoph. b L. 33. de con. em. Com. Pl. 2. li. 10.*

h *L. 33. de com. ena.*

commanded the Crier to Proclaime, that it had a good Neighbour: Which h Interpreters note, to the Law. And there bee many things of the ſame kinde. Wherefore neither if theſe neighbouring Subjects would change their condition, neither if by reaſon of a fault committed againſt their owne King, they be compelled to alter it, is another Neighbouring Prince compelled to ſuffer it, to whom neither another mans will nor offence ought to bring damage. The i *Venetian* Embaſſadors when they interceded for *Sigiſmund* of *Malteſta*, to Pope *Pius* the ſecond, they ſpake even this, that Neighbouring Princes would not have another Neighbour, whom furthermore they knew not, what he might hereafter be. And you may note, that *Sigiſmond* held Townes from the Church, and for his committed offences, he ought worthily to loſe them. Perhaps ſome will doubt, whether theſe things be true in private mens cauſes. k For a private man ſeemes to have power to doe with his owne what he liſt, if it bee profitable to himſelfe, and hurt not another. Yet theſe things bee true thus in the cauſes of Empires. For Princes ought to take heed for the future, that another if he will, may not yet be able to hurt another, which is expounded in the Treatiſe of *Profitable defence*. l But even that rule, that it is lawfull for any to doe what he liſt with his owne, holds not otherwiſe; then if the condition of a Neighbour bee made neither worſe nor more grievous thereby: although it be true that no man may take care of the gaine, which his Neighbour made, and which was owing to him by no obligation. But even ſecurity, and a certaine ſingular conjunction of love from a Neighbour, is due to Empires: Now this we know, what things are taken away when Neighbours are changed. m And the ſame people is not the ſame that they were, if the Common-wealth be not the ſame that it was. For it is not lawfull (I ſay againe) to doe all things with the Subjects; for that is not lawfull with the Subjects which would be a hurt, and a danger to thoſe that are no Subjects. It is not lawfull to make Fortes in his owne Land, which may be terrible to thoſe that are not his, as you ſhall heare in the third Booke. Therefore neither is it lawfull to doe with his owne, that which may be a terrour to others. o How ever theſe are called equivalent, to doe in his own place, and towards his own Subjects. Whether if my Neighbour ſhould place in his Houſe Gunnes, and other things againſt my Houſe, may I neither be carefull for my ſelfe, nor ſtirre againſt my Neighbour? Thus, thus were Preparations made in *Holland*; and that great Noble man, *Leiceſter*, very wiſely foreſaw, that the defence of the *Hollanders*, was very wholeſome and neceſſary for the Common-wealth, and he perſwaded it to be undertaken, p leaſt if the *Spaniards* ſhould break through that Pale of *Europe*, as then very wiſely *Iuſtus Lipſius*, called it there ſhould remaine no obſtacle at all to their cruelty. And thus farre of Warre Defenſive.

i *Com. Pii. 2. li. 10.*

k *26. de di. inf. Alex. 2. 174.*

l *L. 1. de ag. pl. L. 8 ſi ſe. ui. Bal. 4. conſ. 396.*

m *Ariſt. 3. pol.*

n *Bal. 5. Conſ. 409.*

o *Bal. 9. Conſ. 396.*

p *Lipſ.*

Thus, and much more this our learned Profeſſor of the Civill Law, *Albericus Gentilis*; whoſe words I have thus largely tranſcribed; becauſe they not onely abundantly juſtifie the lawfulneſſe of the Parliaments preſent Defenſive Warre in point of Law, and their Ordinances of Aſſociation and mutuall Defence, but likewiſe fully anſwer all the cavils and pretences of Royaliſts and Malignants againſt the progreſſe and managing of this warre, from principles of *Nature*, *Law*, *Humane Reaſon*, *Equity*, *and humane Authorities*.

THE

THE LAWFVLNES OF THE PARLIAMENTS present Defensive Warre in Point of *Divinity* and *Conscience.*

THe lawfulnesse and justnesse of the Parliaments present necessary Defensive Warre, in point of *Common, Civill, Canon Law*, and *Policy*, having been largely debated in the premises, because not hitherto discussed in that kinde by any, to my knowledge; I shall in the next place proceed to justifie it in point of *Divinity* and *Conscience*; Wherein, though I shall be more concise then I intended, because sundry *Learned* * *Divines*, in many late *Printed Bookes*, common in all mens hands have professedly handled it at large, and given good satisfaction unto many unresolved scrupulous Consciences; yet because this Treatise may come into diverse hands, which have not perused their discourses; and those whose judgements may be convinced by the *Legall*, may still have some scruples of Conscience resting in them, in reguard of the *Theologicall Part*, and because some things (perchance) in Point of *Theology*, which others have wholly omitted, may seasonably be here supplyed, to satisfie Consciences yet unresolved of the justnesse of the present, and all other necessary Defensive Warres, I shall not over-sparingly or cursorily passe through it, without a competent debate:

(a) Master *Goodwine* his *Anti-cavallar.* and *Bone for a Bishop.* Master *Burroughs* his Lord of Hosts. The severall Answers & Replies to Doctor *Ferne*, The honest Broker, Scripture & Reason, pleading for Defensive Armes (the best and acutest of this kind) with many others.

Now lest the Consciences of any should bee seduced, ensnared with generalities, or cleere mistakes through the mis-stating of the points in question, with which devise, many have beene hitherto deluded by the Opposites, who cumbate onely with their owne mishapen fancies, discharging all their Gun shot against such Tenets as are not in question, and no waies comming neere the *White* in Controversie, I shal for my own orderly proceeding, and the better satisfaction of ignorant, scrupulous, seduced consciences, more punctually state the Question, then formerly in the Legall Part; first, *Negatively*, next, *Positively*; and then proceede to its debate. Take notice therefore.

First, that this is no part of the question in dispute. *Whether the Parliament, or any Subjects whatsoever, may actually disobey, or violently with force of Armes resist the Kings, or any other lawfull Magistrates just commands, warranted either by Gods Word, or the Lawes of* England? it being out of controversie, readily subscribed by all of both sides; that *Such commands ought not so much as to be disobeyed, much lesse forcibly resisted but cheerefully submitted to, and readily executed for Conscience sake, Rom.* 13.1. to 6. 1 *Pet.* 2. 13, 14. *Tit.* 3. 1. *Hebr.* 13.17. *Iosh.* 1. 16, 17, 18. *Ezra.* 7. 26. *Eccles.* 8. 2, 3, 4, 5. the onely thing these objected Scriptures prove, which come not neere the thing in question, though our Opposites most rely upon them.

I,

Secondly, Neither is this any branch of the diſpute: *Whether Subjects may lawfully riſe up, or rebell againſt their Prince, by way of Mutiny, Faction, or Sedition, without any juſt, or lawfull publicke ground; or for every trifling injury, or provocation offered them by their Prince? Or whether private men, for perſonall wrongs (eſpecially where their lives, chaſtities, livelihoods are not immediatly endangered, by actuall violent, unjuſt aſſaults) may in point of Conſcience, lawfully reſiſt, or riſe up againſt their Kings, or any other lawfull Magiſtrates?* Since all diſavow ſuch tumultuous Inſurrections and Rebellions in ſuch caſes: yet this is all which the oft objected Examples of [b] *Korah, Dathan,* and *Abiram,* with other Scriptures of this Nature, doe or can evince.

[b] *Num.16.*

Thirdly, nor is this any parcell of the Controverſie. *Whether Subjects may lay violent hands upon the perſons of their Princes, wittingly or willingly to deprive them of their Lives or Liberties, eſpecially, for private Injuries; or in cold blood when they doe not actually nor perſonally aſſault their lives or chaſtities; or for any publike miſdemeanours, without a precedent ſentence of Impriſonment, or death againſt them given judicially, by the whole States or Realmes, where they have ſuch Authority to araigne and judge them?* For all unanimouſly diſclaime, yea abominate ſuch Traitorous practiſes and Ieſuiticall Poſitions, as execrable and unchriſtian: yet this is all which the example of *Davids not offering violence to King Saul:* the 1 *Sam.* 24. 3. to 22. *cap.* 26. 2. *to* 25. 2 *Sam.* 1. 2. *to* 17. or that perverted Text of *Pſal.* 105. 15. (the beſt Artillery in our Adverſaries Magazines) truely prove.

Fourthly, Neither is this the thing in difference, as moſt miſtake it. *Whether the Parliament may lawfully raiſe an Army to goe immediately and directly againſt the very perſon of the King, to apprehend or offer violence to him, much leſſe intentionally to deſtroy him, or to reſiſt his owne perſonall attempts againſt them, even to the hazard of his life?* For the *Parliament,* and their *Army* too, have in ſundry [c] *Remonſtrances, Declarations, Proteſtations,* and *Petitions,* renounced any ſuch diſloyall intention or deſigne at all; for which there is no colour to charge them; and were his Majeſtie now alone, or attended onely with his Ordinary *Courtly Guard,* there needed no Army nor Forces to reſiſt his perſonall aſſaults. Yet this is made the principall matter in queſtion by Doctor *Ferne,* by *An appeale to thy Conſcience,* and other Anti-parliamentary *Pamphlets*; who make this the ſole Theame of their Diſcourſes: *That Subjects may not take up Armes* Againſt their Lawfull Soveraigne, *becauſe he is wicked and unjuſt; no, though he be an Idolater and Oppreſſor:* That, *Suppoſe the King will not diſcharge his truſt, but is bent, or ſeduced to ſubvert Religion, Lawes, Liberties, yet Subjects may not take up Armes, and reſiſt the King, it being unwarrantable, and according to the Apoſtle, damnable,* Rom. 13. Yea, this is all the queſtions the Cavaleers and Malignants demand of their Oppoſites in this cauſe. *What? will you take up Armes; will you fight againſt, or reſiſt the King? &c.* Never ſtating the queſtion of his Forces, his Army of Papiſts, Malignants, Delinquents, but onely of the King himſelfe abſtracted from his invading, depopulating Forces, againſt whom, in this ſence of theirs, the Parliament never yet raiſed any Forces, nor made the leaſt reſiſtance hitherto.

[c] See an exact Collection of all Remonſtrances, &c.

(d) *The Reſolving of Conſcience. The Neceſſity of Chriſtian Subjection, &c. A Revindication. The Grand Rebellion, &c.*

Theſe foure particulars then being not in queſtion, I ſhall here appeale to the moſt Malignant Conſcience: Whether Doctor *Ferne,* and all other our Oppoſites, pretenders of Conſcience, haue not ignorantly, if not maliciouſly, made ſhipwracke of

their

their good Consciences (had they ever any) by a wilfull mistating of the Controversie, concerning the present Defensive Warre, in the foure preceding particulars, which they make the onely *Questions*; when not so much as one of them comes within the Verge of that which is the reall Controversie; and never once naming that in all, or any of their Writings, which is the point indeed? Secondly, Whether there bee any one Text or Reason in all their Pamphlets, particularly applied to any thing which concernes the present Warre, but onely to these foure particulars, which are not in debate? And if so, (as no Conscience can gaine-say it) then there is nought in all the wast Papers they have published, which may either resolve or scruple any Conscience, *That the Parliaments Defensive Armes and resistance are unlawfull in point of Divinity, or Conscience,* which is steered by the Scriptures Compasse.

But if these particulars be not in question; you may now demand, what the knot and true state of the present Controversie, in point of Conscience, is? In few words, take it thus.

Whether both Houses of Parliament, and the Subjects by their Authority, for the preservation of their owne Persons, Priviledges, Lawes, Lives, Liberties, Estates, Religion; the apprehension of Voted contumacious Traitors, and Delinquents, the rescuing his seduced Majestie out of the power of Popish pernicious Counsellours and Forces, who endeavour the Kingdomes subversion, by Withdrawing him from, and incensing him against his Parliament, may not lawfully with a good Conscience, take up necessary defensive Armes, and make actuall Warlike resistance against his Majesties Malignant ill Counsellors, and invading Popish Forces (who now Murther, Rob, Spoile, Sacke, Depopulate the Kingdome in a most Hostile manner, to set up Tyranny, Popery, and an Arbitrary lawlesse Government,) *in case they come armed with his personall presence, or commission, to execute these their Wicked illegall designes*; Especially, *when neither the Parliament nor their forces in this their resistance, have the least thought at all, to offer any violence, to the Kings owne person, or to oppose his Legall, iust Soveraigne Authority?*

Or shorter, *Whether the Kings Captaines and Souldiers invading the Parliament, and Subiects, as aforesaid, the Parliament or Subiects (especially when authorized by an Ordinance of both Houses) may not with a safe Conscience forcibly resist these Malignants though armed with the Kings illegall Commissions, without his personall presence; or with his presence and Commissions too? And for my part, I thinke it most evident, that they may lawfully resist, repulse them, even by Divine Authority.* For the better clearing whereof, I shall premise these three undeniable Conclusions.

First, That no lawfull King or Monarch whatsoever, (much lesse the Kings of *England*, who are no absolute Princes) have any the least Authority from the Lawes of God or man, personally by themselves, or instruments, to doe any injurie or iniustice to their Subiects; how much lesse then by open Force to Murther, Rob, Plunder, Ravish, Ruine, or Spoile them of their Lawes, Liberties, Estates, Religion, all which is plentifully proved by Law Authorities, in the premises; and punctually confirmed by these ensuing Texts. *Ezech.* 44 15, 16, 17. *cap.* 45. 8, 9. *Psalm.* 105. 14 15. *Isay* 14. 15. *to* 23. 2 *Sam.* 23. 3. *Isay* 1. 23. *cap.* 3. 12. 14. 15. *Prov.* 28. 15. 16. *Ezekiel* 22. 6. 7. 27. *Zeph.* 3. 3. *Mich.* 3. 1. *to* 12. 1 *Sam.* 12. 3. 4 5. 1 *King. cap.* 21. & 22. *Zeph.* 2. 8. *Isay* 9. 7. *cap.* 16. 5. *cap.* 32. 1. 2. *cap.* 49. 23. 2 *Chron.* 9. 8. *Ier.* 22. 3. *to* 32. *Obad.* 2, 10. *to* 16. *Rom.* 13 3. 4. 5. 6. 1 *Pet.* 2. 13, 16. and infinite Scriptures more.

Secondly,

2. Secondly, That all Subiects and persons whatsoever, are obliged both in point of Law and Conscience to disobey, resist, and not execute, the unjust illegall Commissions, Mandates of their Kings, and other Magistrates. This is evident by the *Midwives* refusall *to murther the Hebrewes Male-children at King* Pharoahs *command, for which God blessed them, and built them houses. Exod.* 1. 15. *to* 20. By *Balaams* denyall *to curse or defie the Israelites, at King Balacks intreaty. Numb.* 22. & 23. & 24. By the refusall of *Sauls Guard and Footmen to slay or fall on the Priests at* Nob, *by King Sauls personall command, though present*, and not onely *their King but Master too*: 1 *Sam.* 22. 17. 18. By *Ionathans* denyall to kill, or *consent to the death of David upon Sauls mandate*, though not onely his Soveraigne, but Father, although he might have gained the Crowne by it, and indangered his owne life by refusing it, 1 *Sam.* 20. 27. to 42. By *Sauls* Armour-beares forbearance to runne him thorow with his Sword, when he fled before the *Philistimes*, though he as his *King and Master enioyned him to doe it*; *lest the uncircumcised should come and thrust him through and abuse him.* 1 *Sam.* 31. 4. By *Mordechai* his denyall to bend the knee to *Haman*, the great Favourite, *though the King had so commanded. Esther* 3. 1. 2. 3. 4. 5. By *Shadrach, Meshach, Abednego*, and *Daniels* refusall, *to eat of the Kings portion of meat and wine assigned them, least they should be defiled, Dan.* 1. 5. *to* 12. By their peremptory resolution, not *To fall downe and worship King* Nebuchadnezzars *golden Image, though twice strictly commanded by the King to doe it, and threatned to be cast into the fiery Furnace* (as they were) *for refusing it, Dan.* 3. 4 *to* 30. By *Daniels* disobeying the Kings and Lords *Idolatrous Decree, not to offer a Petition to any God or man for* 30. *dayes, save of King* Darius, *under paine of being cast into the Lyons Denne, Dan.* 6. 5. *to* 24. By the *Pharises and chiefe Priests Officers* neglect to *apprehend our Saviour* for his Preaching, though enjoyned so to doe by their *Masters, Iohn* 7. 32. *to* 48. By the Apostles refusall *to give over Preaching, and perseverance in Preaching, notwithstanding the High Priests and Councels expresse Inhibitions and doubled Commands, seconded with Apprehensions, Imprisonments, Scourgings*; and their direct resolutions in this very case, [d] *That we ought to obey God rather then men, Acts* 4. 12. *to* 22 *cap.* 5. 17. to the end. By *Peters* Preaching to, *and conversing with the Uncircumcised Gentiles*, notwithstanding the *Christian Iewes dislike, Acts* 11. 1. *to* 19. with infinite Presidents of this nature in *Ecclesiasticall Histories*; the very sufferings of all the [e] *Martyrs depending on this ground alone*: which is backed by *Matth.* 10. 28. 32. 33. *Luc.* 12. 4. 8. *cap.* 9. 23. 24. 25. 26. *Ezech.* 2. 3. *to* 9. *Rev.* 13. 3. to the end. *Rom.* 12 1. 2. *John* 16. 2. 3. 1 *Thess.* 2 14. 15. 16. *Exod.* 32. 2. *Iosh.* 24. 15. *Psalm.* 44. 15. *to* 23.

[d] See *Gratian Caus.* 11. q. 3. *cap.* 22.

[e] See *Fox* Acts & Monum. French Book of Martyrs, with others.

3 Thirdly, That as all Kings illegall unjust commands are void in Law, and will no waies extenuate the guilt, or justifie the actions of those instruments who execute them in point of Law, as I have [f] *formerly* cleared; so are they likewise meer nullities, and insufficient to excuse the executioners of them in point of Conscience; as is evident by, *Psal.* 52. 5. where God threatens to destroy *Doeg the Edomite, for ever, to take him away, plucke him out of his dwelling place, and root him out of the land of the Living, for executing King* Sauls *bloody command upon the Priests at* Nob, 1 *Sam.* 22. By Gods exemplary punishment upon *those Souldiers who by King* Nebuchadnezzars *speciall command, bound the three Children and cast them into the firy Furnace; who were slaine by the flames of the Furnace, though these three Martyrs had no harm*

[f] *Pag.* 10. 11. *&c.*

harme in the Furnace it selfe, Dan. 3. 20. to 28. By Gods consuming the two Captaines and their fifties with fire from heaven, who came violently to apprehend the Prophet Eliah by King Ahaziah his commission, and unjust command, 2 King. 1. 9 to 16. By the Precept of Iohn Baptist given to Souldiers themselves, Luke 3. 14. Doe violence to no man: (neither by the Kings, nor Generalls Command) neither accuse any falsely. By 1 Tim. 5. 22. Lay hands sodainly on no man, (no more in a violent, Military, then in Ecclesiasticall sense) neither be partakers of other mens sinnes: Compared with the next forecited Scriptures; with Rom. 1. 32. Math. 15. 14. Psal. 50. 18. 21. Prov. 1. 10, to 16. Obad. vers. 10. to 16 Isay 1. 23. with Isay 9 16. The leaders of this people cause them to erre, and those that are led of them are destroyed. What therefore Saint Iohn writes in another case, 2 Iohn 10. 11. If there come any unto you (be he an Archbishop, Bishop, Archdeadon, Ferne himselfe, or any Court Chaplaine whatsoever,) and bring not this Doctrine; receive him not into your house, neither bid him God speed; for he that biddeth him God speed, Is partaker of his evill Deeds: I shall apply to this particular of executing Kings unjust Commands against their people; they are partakers of their Kings wickednesse, if they do but intertaine their unjust Commissions into their Houses, or bid them God speed; much more if they execute them either voluntarily, or against their wills, out of an unworthy feare, or base respects.

Argument 1

These three Conclusions being irrefragable, My first Argument to justifie resistance from them shall be this. That violence against the Subjects persons, Consciences, Families, Estates, Properties, Priviledges, or Religion, which neither the King himselfe in proper person, nor any his Officers, nor Souldiers by command from him, have any Autoritie by the Lawes of God or man, in Law or Conscience to inflict: and which in Conscience ought not to be obeyed, but rejected as a meere nullity, even by the instruments enjoyned for to execute it; may justly with a safe Conscience be resisted by the Parliament and Subjects; there being not one syllable in Gods Word to contradict it. But the violence now offered by the Kings Forces to the Parliament and Subjects every where, is such. Therefore it may justly with a safe Conscience be resisted; especially in the Kings Commanders and Souldiers, who are neither the King himself, nor the Higher Powers ordained by God; and no other then plain Theeves and Murtherers in Law and Conscience, if they plunder, kill, spoile; their Commissions being but Nullities in both; and they in this particular meere private men, without any Authority to iustifie their actions, as I have already proved.

2

Secondly, That resistance which is warranted by direct Precedents recorded, approved in Scripture even by God himself, must questionlesse be lawfull in case of conscience: But the resistance even of Kings, their highest Magistrates, officers in the execution of their unjust Commands is thus warranted. Therfore, doubtles, it must be lawfull in point of Conscience. The *Minor* (only questionable) is thus confirmed. First, by the notable example of the Prophet *Eliah*, 2 *Kings* 1. 2. to 16. who sending backe King *Ahaziah* his Messengers (sent by him to enquire of *Baal-zebub* the God of *Ekron*, *whether hee should recover of his disease*) with an harsh Message to the King, contrary to his Command, which they disobeyed; thereupon this King, in an angry fume, sent *two Captaines with* 50. *men apeece*, one after another, *to apprehend the Prophet for this affront*; (as § *Iosephus*, with other Interpreters accord,) who comming with their forces to him, said; *Thou man of God, the King hath said, come*

§ *Antiq. Iud. lib. 9. cap. 1. Ipse Prophetæ cum minatus vim esset, ut ni sponte sua faciat, vi coactum eo pertrahat &c.*

come downe quickly. To whom he ſucceſſively anſwered: *If I be a man of God, then let fire come downe from Heaven, and conſume thee and thy fifty; And there came fire from heaven thereupon, and conſumed two Captaines and their fifties*: but the *third Captaine and his fifty, who humbled themſelves to the Prophet, and begged the ſparing of their lives*, were ſpared; *the Angel of the Lord bidding the Prophet to goe downe with them to the King, and not be afraid.* From which Text it is infallible, even by a divine Miracle from heaven, doubled by God himſelfe; That it is lawfull for Subjects in ſome caſes, to reſiſt the unjuſt violence of the Souldiers and Captaines of their Kings though armed with their Regall Commands. Secondly, by the Hiſtory of the Prophet *Eliſha*, 2 *Kings* 6. 31, 32, 33. Who when *King Ioram* (his Soveraigne) had ſworne unjuſtly in his fury; *God doe ſo to me and more alſo, if the head of Eliſha ſhall ſtand on him this day*; and thereupon ſent *a Meſſenger before him to Eliſha his houſe to take away his head*; the Prophet was ſo farre from ſubmitting to this Inſtrument of his; that he *Commanded the Elders ſitting then with him in the houſe, to looke when the Meſſenger came, and ſhut the doore, and* **Hold him faſt at the Doore**, *though the ſound of his Maſters feet* (the King) *were behind him*; whom he ſtiles, *the ſonne of a Murderer.* Might theſe two eminenteſt Prophets thus openly reſiſt the Captaines, Souldiers, and unjuſt Executioners of their Princes, with a good Conſcience; and may not others lawfully doe the like? No doubt they may. Thirdly, (If I bee not much miſtaken) this kind of reſiſtance is warranted even by Chriſt himſelfe, and his Apoſtles: For a little before his Apprehention, Chriſt uttered this ſpeech unto his Diſciples, *Luke* 22. 36, 37, 38. *But* **Now**, *he that hath no Sword, let him ſell his garment and buy one, &c.— And they ſaid, Lord, behold, here are two Swords. And he ſaid unto them, it is enough.* Why would Chriſt have his Diſciples buy Swords now, unleſſe it were for his and their owne better Defence, being the time when he was to be apprehended. [h] *Soone after this* Judas *and his Band of men ſent from the High Prieſts, with Swords and Staves came to ſeize upon Chriſt.* Which *when they who were about him ſaw what would follow: They ſaid unto him; Lord, ſhall we ſmite with the Sword?* His commanding them to buy Swords now, was ſufficient ground for this queſtion, and intimation enough, that they might now uſe them: whereupon Chriſt giving no negative anſwer; *One of them which were with Ieſus* (and *John* directly ſaith it was *Peter*) ſmote a ſervant of the High Prieſt (whoſe name was *Malchus*) and cut off his *right eare.* Herenpon *Jeſus anſwered and ſaid, Suffer yee* **Thus Farre**: So [i] *Luke*; *Marke* relates no anſwer at all reprehending this fact: [k] *John* records his ſpeech to *Peter* thus. *Then, ſaid Ieſus unto Peter, Put up thy Sword into the ſheath. The Cup which my Father hath given me, ſhall I not drinke?* To which *Matthew* addes, [l] *thinkeſt thou that I cannot pray to my Father, and he ſhall preſently give me more then twelve Legions of Angels?* But how *then ſhall the Scriptures bee fulfilled, that thus it muſt be?* So that the reaſon why Chriſt bade *Peter* thus to *put up his ſword*; was not becauſe he thought defence of himſelfe, and *Peters* ſmiting now altogether unlawfull in it ſelfe; but onely inconſiſtent with Gods preſent providence, which it ſhould ſeeme to croſſe. Chriſt was now by [m] *Gods eternall decree, and the Scriptures prediction*, (which muſt be neceſſarily fulfilled) to *ſuffer death upon the Croſſe for our iniquities*: ſhould *Peter* then, with the other Diſciples have totally reſiſted his apprehention at this time, and proceeded ſtill to ſmite with the Sword as they began, till they had reſcued our Saviour, he could not then have ſuffered, nor the Scriptures

[h] *Matth.* 26. *Mar.* 14. *Luc.* 22. *Iohn* 18.
[i] *Luc.* 22. 50. 51.
[k] *Iohn* 18. 10, 11.
[l] *Matth.* 26. 52, 53.
[m] *Acts* 2. 23. *Cap.* 4. 27, 28. *Luk.* 24. 25, 26, 27. *Iſay* 53.

be fulfilled: had it not beene for this speciall reason (rendred by Christ himselfe, to cleare all scruples against the Lawfulnesse of selfe-defence in such cases,) *Peter* might still have used his sword to rescue his Master from these Catchpoles violence; and if he and his fellowes had beene too weake to withstand them, Christ was so farre from imagining that hee might not have lawfully defended himselfe; that hee informes them, *he could* (and would no doubt) *have presently commanded whole Legions of Angels from heaven, by his Fathers approbation, to rescue him from unjust violence.* And his Speech to *Pilate*, after his taking, plainely, justifies the lawfulnesse of such a forcible defence with Armes to preserve a mans life from unjust execution: *Iohn* 18.36 *If my Kingdome were of this world,* **Then would my Servants fight** (in my Defence and Rescue) **that I should not be delivered to the Iewes**: *but now my kingdom is not from hence.* All which considered, clearely justifies, the Lawfulnesse of resisting the Kings, or higher Powers Officers, in cases of apparant unjust open violence or assaults; and withall answers one grand argument against resistance from our Saviours present Example: namely, * *Christ himselfe made no resistance when hee was unjustly apprehended*; Ergo, *Christians his Followers* (*Ergo*, no Kings, no Magistrates too, as well as Christ the King of Kings, and Lord of Lords, for they are Christians as well as subjects;) *ought not to make any forcible resistance of open violence*: Which argument is a meere inconsequent; because the reason why Christ resisted not these Pursevants, and High Priests Officers, was onely, *that his Fathers decree, and the Scriptures foretelling his Passion might be fulfilled*, as himselfe resolves; not because hee deemed resistance Vnlawfull, which he even then approved, though hee practised it not, as these Texts doe fully proove.

* See Doct. *Fernes* resolving of Conscience. An Appeale to thy Conscience, with others who much rely on this ill founded?

Fourthly, The lawfulnesse of a defensive Warre, against the invading Forces of a Soveraigne, is warranted by the example of the City *Abel*; which stood out and defended it selfe against *Ioab*, *Davids* Generall, and his Forces, when they besieged and battered it; till they had made their peace, with the head of *Sheba* who fled into it for shelter, 2 *Sam.* 20.14 *to* 23. And by that of *Ester*, Ch. 8. 8. to 17. chap: 9. 1. to 17. pertinent to this purpose. Where *Haman* having gotten the Kings Decree, to be sent unto all Provinces *for the utter extirpation of the whole Nation of the Iewes*, the King after *Hamans* Execution (through Gods great mercy, and *Mordecaies* and Queene *Esters* diligence) to prevent this bloody massacre by their Enemies, granted to the Iewes in every City, by Letters under his Seale, 'To gather themselves together, and to stand for their lives, to destroy, to slay, and to cause to perish 'all the power of the people and Province **That would Assault them**, both litle ones 'and women, and to take the spoile of them for a prey; and that the Iewes should 'be ready against the day, to avenge themselves of their enemies. *Hereupon* when 'the day, that the Kings Commandment and Decree (*for their extirpation*) drew neere 'to be put in execution, in the day that the enemies of the Iewes hoped to have 'power over them; the Iewes gathered themselves together in their Cities, throughout all the Provinces of King *Ahasuerus*, to lay hand on such as sought their hurt; 'and no man could withstand them, for the feare of them fell upon all people: And 'all the Rulers of the Provinces, and the Lieutenants, Deputies, and Officers of the 'King helped the Iewes, because the feare of *Mordecai* fell upon them: So the Iewes 'smote all their enemies with the stroake of the Sword, and slaughter, and destruction, and did what they would unto those that hated them. In the Palace they slew

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'eight hundred men, and *Hamans* tenne ſonnes, on ſeverall dayes. And the other 'Iewes that were in the Provinces, gathered themſelves together, and Stood for 'their Lives, and had reſt from their enemies, and ſlew of their foes ſeventy and 'five thouſand, but they laid not their hands on the prey. Loe here a Defenſive war, juſtified, and granted lawfull, by the Kings owne Letters to the Iewes, againſt their enemies, who by former Charters from him, had Commiſſion wholly to extirpate them. Neither had this licence of the King in point of Conſcience, been lawfull, had their defence and reſiſtance of the Kings former Commiſſion been wholly unlawfull. And the reaſon of the Kings grant to them, to reſiſt and ſlay their Enemies, that would aſſault them; was not ſimply, becauſe their reſiſtance without it, and ſtanding for their lives, had beene unlawfull, by reaſon of the Kings firſt unjuſt Decree, which they ought not in Conſcience to ſubmit to, without repugnancy; But onely to enable the Iewes, then Captives, and ſcattered abroad one from another in every Province, with more convenience, ſecuritie, boldneſſe, and courage now to joyne their forces together, to reſiſt their malicious potent enemies; to daunt them the more thereby; Nature it ſelfe, yea, and all Lawes in ſuch a bloody Nationall Butchery as this, without any juſt cauſe at all, both taught and enabled every one of the Iewes, to *ſtand for his life*, his Nations, Religions, preſervation, even to the laſt drop of blood. Therefore the Letters of the King did not ſimply enable them to reſiſt their enemies, which they might have done without them; but give them Authority to *deſtroy, and ſlay the Wives and little children of their Enemies, and to take the ſpoile of them for a prey*; which they refuſed to doe, becauſe they deemed it unjuſt, notwithſtanding the Kings permiſſion and conceſſion, which as to theſe particulars, was illegall, and more then hee could juſtly grant. This generall Nationall reſiſtance of Gods own people then of their aſſaulting cruell Enemies, even among Strangers, in the land of their Captivity under a forraigne Enemy, with the former and other following precedents, will queſtionleſſe more then conjecturally prove, if not infallibly reſolve, The lawfulneſſe of a neceſſary Defenſive Warre, and oppoſition by free Subiects, againſt their Kings aſſailing Forces which ſeekes their ruine, though armed with their Kings Commiſſion, and that without any Ordinance of Parliament authoriſing them to reſiſt, much more then, when enabled to oppoſe them by Ordinances of both Houſes, as the Iewes were to reſiſt and ſlay their enemies by this Kings Letters and Authority.

3. Thirdly, That kind of reſiſtance which hath no one Text, nor Example in Scripture to impeach its lawfulneſſe, but many Texts and precedents to countenance it, muſt doubtleſſe be lawfull in point of Conſcience. But the reſiſting of Kings invading pillaging, deſtructive Forces (who have nothing to plead, to juſtifie all their Villanies but a void illegall Warrant) hath no one Text nor example in Scripture to impeach its lawfulneſſe, for ought I can finde; (and if there be any ſuch, I wiſh the Oppoſites would object it, for *Rom.* 13. as I ſhall ſhew hereafter, doth no waies contradict, but approve it:) But it hath many Texts and precedents to countenance it, as the premiſes and ſequell atteſt: Therefore it muſt doubtleſſe bee lawfull in point of Conſcience.

4. Fourthly, it is confeſſed by all men, (yea thoſe who are moſt intoxicated with an Anabaptiſticall ſpirit, condemning all kind of warre, refuſing to carry Armes to defend themſelves againſt any Enemies, Theeves, or Pirates) that it is lawfull not onely paſſively to reſiſt their Kings unlawfull Commands, and invading Forces, but likewiſe

a See Luc. Ofiander. Enchirid Contr. cap. 10. De Magiſtr. Politico.

likewise by flight, hiding, or other pollicies, to evade and prevent their violence; which is warranted not onely by [p] *Moses*, [q] *Davids*, and [r] *Eliahs*, their severall flights from the violence of the *Egyptians*, *Saul*, and *Iezabel*, who sought their lives; but likewise by [s] *Ioseph*, *Mary*, and *Christ himselfe*, who fled into *Egypt to escape the hands and butchery of King Herod*; by Christs own direction to his Disciples *Matth.* 10. 23. *But when they persecute you in this City, flee yee into another*; and that Prediction of his *Matth.* 23. 34. *Behold, I send unto you Prophets, and wise men, and Scribes, and some of them ye shall kill and crucifie, and some of them shall you scourge in your Synagogues, and persecute them from City to City*; which was really fulfilled. Acts 8. 3. 4. c. 9. 1 2. c. 11. 19. c. 13 50, 51. c. 14. 1. to 24. c. 17. 1. to 16. c. 22 42. c. 26. 11. 12. c. 9. 24, 25, 26. 2 *Cor.* 11. 32. 33. *Rev.* 12. 6. Of which reade more in *Tertullian* his booke *De Fuga in persecutione*. Hence then I argue thus. That unjust violence of Princes and their Armies, which Subjects with a safe conscience may decline and flee from, when as they want power, meanes, or convenience to resist it, they may no doubt lawfully resist even with force of Armes, when they have sufficient meanes and conveniences to resist, and cannot flee or submit thereto, without the publicke ruine: since the same justice and equity, which enables them by flight or stratagem to decline unjust assaults of a superior power, or its judgements, doth likewise enable them to escape and prevent it with resistance, when they cannot doe it by flight or other policie: If then they may lawfully with a safe conscience hide, flee, or use lawfull policies, to prevent the open injust violence of their kings and their Officers, when not guilty of any capitall crime deserving censures; because by the very light of nature, and Law of Charity they are obliged to preserve themselves from unjust tyrannie; and are no wayes bound to subject themselves to the cruelty, the unjust assaults, or oppressions of others: then by the selfesame reason, they may lawfully with force of Armes defend themselves against such violent unjust attempts which they are no way obliged to submit unto, when as they cannot conveniently secure themselves and the publicke, but by such resistance, and should both betray their owne, the publicke safety, and Religion (as the Subjects and Parliament should now do) in case they did not resist by force of Armes to the utmost of their power: and become [t] *worse than Infidels*, who have even thus oft provided for their owne and the Republickes securitie.

[p] Exod. 2. 15. &c.
[q] 1 Sam. 19 to 31.
[r] 1 King. 19.
[s] Mat. 2. 13. 14 15.
[t] 1 Tim 5. 8.

Fifly, God himselfe, *the fountaine of* [u] *justice*, *the* [w] *God of* [x] *Order*, the [y] *preserver of humane society who detests of all tyranny cruelty, oppression, injustice*, out of his [a] *Philanthropie* (which brought the Sonne of his bosome from heaven to earth) would never certainely in point of policy or conscience prohibit that, which is the onely probable meanes and apparent remedy, to prevent, suppresse disorder, tyranny, cruelty, oppression, injustice, yea confusion in the world; and to preserve good order and humane society: a truth so apparent, that no rationall man can contradict it. Therefore questionesse he never prohibited forcible necessary resistance of the highest powers and their instruments in cases of open unjust violence, and hostile invasion made upon their people to ruine them, or subvert their established government, Laws, Liberties, Iustice, Religion: There being no other probable ordinary meanes left to any Kingdome, Nation, People, to preserve their government, lives, Lawes, Liberties, Religion, and to prevent, suppresse, or redresse tyrannie, cruelty, disorder, confusion, yea utter ruine, when their Kings and Governors degenerate into Tyrants, invading them

[u] Zeph 3. 5. Esay 45. 21.
[w] 1 Cor. 14. 33 40.
[x] Job 7. 20.
[y] Psal. 5. 6. Psal 11. 5.
[a] John 3. 16. 1 John 4 9.

them with open force, but onely defenſive Armes: prayers and teares alone, without military oppoſition by force of Armes, being no more able to defend a perſon, City or Kingdome againſt Oppreſſing Princes and their Armies, then againſt theeves, Pyrates or common enemies; whom they muſt and ought to reſiſt, as well with *Armes* as *Orisons*, with *Spears* as well as *Teares*, elſe they ſhould but tempt the Lord and deſtroy themſelves (like thoſe [c] *Iewes and Gothes who would not fight upon the Sabbath, and ſo were ſlaine by their enemies without reſiſtance:*) yea wilfully ſuffer the Commonweale to be ſubverted, Religion extirpated; Lawes trampled under feete, their own poſterities to be enſlaved, ruined without any oppoſition, even in a moment. For were it utterly unlawfull, and no leſſe than Treaſon or Rebellion, in point of conſcience for any ſubjects to take up Defenſive Armes to reſiſt the Kings army, or forces, conſiſting for the moſt part of Papiſts, Delinquents, deboiſt Atheſticall perſons of broken fortunes, ſeared conſciences and moſt irreligious lives, I appeale to every mans conſcience, how ſoone theſe unreſiſted Inſtruments of cruelty would utterly extirpate our proteſtant Religion, and common faith, for which we are enjoyned earneſtly to contend and ſtrive: *Jude* 3. *Phil.* 1. 27, 28. And ſhall we then yeeld it up and betray it to our adverſaries without ſtrife or reſiſtance? how ſodainely would they ruin our Parliament, Lawes, Liberties; ſubvert all civill order, government; erect an arbitrary Lawleſſe tyrannicall Regency regulated by no lawes but will and luſt? how ſoone would they murther, impriſon, execute our Nobleſt Lords, Knights, Burgeſſes, beſt Miniſters, and Commonwealths-men for their fidelity to God, their King and Country? how many Noble families would they diſinherite? how many wives, widdowes, Virgins would they force and raviſh; what Cities, what Countries, would they not totally pillage, plunder, ſack, ruine, conſume with fire and ſword? how ſoone would our whole Kingdome become an *Acheldama*, a wilderneſſe, a deſolation, and the ſurviving inhabitants either ſlaves or beaſts, if not devils incarnate? Yea how ſpeedy might any private Officers, Captaines, Commanders, by colour of illegall Commiſſions and commands from the King, or of their Offices, and all the notorious rogues and theeves of *England*, under colour of being liſted in the Kings Army, if the people might not in point of Law or Conſcience reſiſt them with Armes who came armed for to act their villanies, maliciouſly rob, ſpoyle, plunder, murther all the Kings leige people, without any remedy or prevention, and by this pretext, that they are the Kings Souldiers, ſodainely ſeiſe and gaine all the armes, treaſure, forts, ammunition, power of the Realme, into their poſſeſſions in a moment; and having thus ſtrengthned themſelves, and ſlaine the Kings faithfull ſubjects, uſurpe the crown it ſelfe if they be ambitious, as many private Captaines and Commanders have anciently ſlaine divers Roman and Grecian Emperours, yea ſundry *Spaniſh*, *Gothiſh* and *Mooriſh* Kings in *Spain* by ſuch practiſes and aſpired to their Crowns, (of which there are ſundry ſuch like preſidents in moſt other Realmes:) to prevent, redres, which ſeverall deſtructive miſchiefes to People, Kingdome, Kings themſelves, God himſelfe hath left us no other certaine, proper, ſufficient remedy but a forcible reſiſtance, which all Kingdomes, Nations throughout the world, haue conſtantly uſed in ſuch caſes, as I ſhall manifeſt more largely in the *Appendix*. Therefore certainely it muſt needs bee lawfull, being Gods and Natures ſpeciall Ordinance to ſecure innocent perſons, Cities, Nations, Kingdomes, Lawes, Liberties, Lives, Eſtates, Religion, and mankinde it ſelfe, againſt the hurtfull Luſts of unnaturall Tyrants, and their accurſed inſtruments,

[b] Lat. 2. 12. to 42. *Alfonſi Carthaginenſis Regum, Hiſp. Apoſtol. c 44.*

ments,

ments, againſt ambitious, treacherous, male-contented Spirits, maliciouſly bent againſt the publicke weale, and peace. There are two things onely which uſually reſtraine inferiour perſons from murthering, robbing, diſſeiſing, injuring one another; the one is, feare of puniſhment by the Magiſtrate; the other, feare and danger of being reſiſted, repulſed with ſhame and loſſe of limbe or life by thoſe they violently aſſault, injure; and were this once beleeved, received for Law or Divinity in the world, that it were unlawful to reſiſt, repulſe a theefe, murtherer, riotor, or diſſeiſor comming in the Kings name, long enjoy his life, goods, liberty, lands, but ſome or other would deprive him of them notwithſtanding all reſtraints of Lawes, of penalties, and maintaine ſuites againſt him with his owne eſtate violently ſeiſed on; the right of lawfull defence, being every mans beſt ſecurity, to preſerve his life, eſtate, in peace againſt the violence of another, whence the wiſdom of the Common Law, makes every mans houſe his Caſtle, in the neceſſary defence wherof, and of his perſon, goods from the violence, rape of others, it gives him libertie to beate, repulſe, yea kill injurious aſſailants: which right of defence if once denyed, would open a wide gap to all wickedneſſe, injuſtice, diſorders whatſoever, and ſpeedily bring in abſolute confuſion, ſubverſion of all property, Law, Order. As for Emperors, Kings, great Officers, and other ungodly inſtruments, armed with Princes unjuſt commiſſions, who deeme themſelves above the reach of humane Lawes, cenſures, and accountable for their unjuſt actions to none but God himſelfe, there is no other knowne barre or obſtacle to hinder or reſtraine their armed violence, Tyrannie, oppreſſions, but onely the feare of the oppreſſed aſſaulted ſubjects armed reſiſtance; which if once denyed to be lawfull, all Royalties would ſoone be transformed into profeſſed Tyrannies, all Kings & Magiſtrates into Tyrants, all Liberty into ſlavery, property into communitie, and every one would thereby be expoſed as a voluntary prey to the arbitrary cruelty covetouſneſſe, avarice, luſts, of the greateſt men. Therefore doubtleſſe this armed reſiſtance cannot but be lawfull, neceſſary, juſt, in point of Law and Conſcience, to eſchew theſe generall miſchiefes.

Sixtly, all will readily grant it lawfull in caſe of Conſcience, for ſubjects to reſiſt a forraigne enemie which invades them with force of Armes, though animated by the King himſelfe to ſuch invaſion; and why ſo, but becauſe they are their enemies, who would wrongfully deprive them of their native inheritance, Liberties, eſtates, and worke them harme; upon which ground, we read in the 2 *Kings* 3.21. *That when the Moabites heard that the Kings of Iſrael, Judah and Edom came up to fight againſt them with a great Army, they gathered all that were able to put on armour, and upward to withſtand them, and ſtood in the border*; and when ever the *Midianites*, *Philiſtines*, *Syrians*, *Babylonians*, *Ægyptians*, *Cananites* or other enemies came to aſſault the *Iſraelites*, they preſently aſſembled together in Armes to encounter and repulſe them, as the Hiſtories of *Joſhua*, *Judges*, *Samuel*, the *Kings*, *Chronicles*, and *Nehemiah* abundantly evidence, almoſt in every Chapter. If then Subjects may with a good Conſcience reſiſt forragin enemies on this ground alone; then likewiſe domeſtick foes and their Kings own Forces, when they become open enemies, to rob, kill, plunder, deſtroy them as inhumanely, as injuriouſly as the worſt Forraigne foes, there being the ſelfe-ſame ground for the lawfulneſſe of reſiſtance of the one as the other, and if the ballance encline to one ſide more than other, an inteſtine enemie being more unnaturall, unjuſt, hurtfull, dangerous, and tranſgreſſing more Lawes of the Realme

(which

(which obliege not ſtrangers) than a Forraigner, and a Civill warre being far worſe, and more deſtructive than a Forraigne; the reſiſtance of an homebred enemy, muſt be the more juſt and lawfull of the two, even in point of Conſcience.

Seventhly, The very Law of God both alloweth and commands all men, to reſiſt their ſpirituall enemies, with ſpirituall Armes: *Jam* 4.7. *Reſiſt the Devill and he will flee from you*, otherwiſe he would eaſily ſubdue and deſtroy us. 1 *Pet* 5.8.9. *Be ſober and vigilant, becauſe your adverſarie the devill as a rearing Lyon walketh about ſeeking whom he may devoure: whom reſiſt ſtedfaſt in the faith, Epheſ.* 5.10. *to* 19. *Finally my brethren be ſtrong in the Lord, and in the power of his might: Put on the whole Armour of God, that ye may be able to ſtand againſt the wiles of the devill. For we wreſtle* (or warre) *not againſt fleſh and blood, but againſt Principalities, againſt powers, againſt the Rulers of the darkeneſſe of this world, againſt Spirituall wickedneſſe* (or wicked ſpirits) *in high places. Wherefore take unto you the whole Armour of God, that ye may be able to withſtand in the evill day, and having done all, to ſtand: Stand therefore having your loynes girded about with truth, &c. Above all taking the ſheild of faith, wherewith ye ſhall be able to quench all the fiery darts of the wicked; And take the helmet of Salvation, and the ſword of the ſpirit, which is the Word of God: Praying alwayes with all prayer and ſupplication.* Hence Chriſtians are termed, *Souldiers of Ieſus Chriſt, and Chriſtianity a warfare, againſt the world, the fleſh, and Prince of the world, the Devill*: 2 Tim. 2.3,4. 2 Cor. 10.3. 1 Tim. 1.18. Iam. 4.1. 1 Pet. 2.11. Rom. 7.23. 2 Cor. 10.4. 1 Cor. 9.7, Iſay 41.2. *Rev.* 12.7.17. In which warfare, we muſt *fight and reſiſt even unto blood ſtriving againſt ſinne*, Heb. 12.4. Vſing not onely prayers and teares, but other ſpirituall weapons of warre, *mighty through God, able to caſt downe every high thing that exalteth it ſelfe, to bring into Captivitie every thought to the obedience of Chriſt, and to revenge all diſobedience*, 2 Cor. 10.4.5.6. If then we may and muſt manfully reſiſt, and fight againſt our Spirituall enemies, though Principalities, Powers, Rulers, wicked ſpirits in high Places, and the [c] Prince of this world himſelf, the Devill, when they aſſault and ſeeke to devoure our ſoules: then by the ſelfeſame reaſon, we lawfully with a ſafe conſcience may, yea ought to reſiſt, repulſe our corporall enemies when they maliciouſly, unjuſtly, forcibly aſſault us, againſt all rules of Law, of Conſcience, to murther, enſlave, deſtroy our bodies, Soules, Religion, the Republicke, which muſt be deareſt to us, though they be Principalities, Powers, Rulers, wicked Spirits in high Places, yea Princes of this world; with all their under Officers and Inſtruments of cruelty, not onely with prayers and teares, but corporall Armes and force, becauſe they unnaturally, tyrannically, ſeeke the deſtruction of our bodies, eſtates, Liberties, Republicke, Religion, there being no inhibition in Scripture, not to reſiſt the one or other, but infinite Texts authoriſing men, not onely to reſiſt, but *warre againſt, yea ſlay their malicious open enemies, untill they be ſubdued or deſtroyed*, Exod. 23.22.27. *Levit.* 26.7.8. Num. 24.8. Deut. 20. throughout. Ioſh. c 8. to c. 13. 2 Sam. 22.38. to 42. 1 Chron. 17.8,10. Eſth. 9.5. Neither doe the Texts of Mat. 5 39. Luk. 6.29. *But I ſay unto you, that ye reſiſt not evill, but whoſoever ſhall ſmite thee on the right cheek, turne to him the other alſo, and him that taketh away thy cloake, forbid not to take thy coate alſo*; prohibit all actuall reſiſtance of publick violence offered by enemies to our perſons, goods, or lawfull defenſive warres; which precept (as is cleare by the context, and reſolved by [d] *Auguſtine, Gratian*, [e] *Alenſis*, and [f] others) extends onely to ſome private injuries and revenges, and to the inward patient preparation

[c] Iohn 14.30. c.12.31. c.16.11.

[d] *Gratian. Cauſ.*23. *Qu.* 1.

[e] *Sum Theolog. pars.*3 *qu.*47. *m.*3. *Ofiander Enchirid. c.*9. *De Magiſt. Vol.*

[f]

preparation of the mind to suffer two injuries, rather then maliciously to revenge a single one, especially in cases where we want ability to resist; not to an actuall bearing of all grosse outward injuries to our persons or estates, without resistance: which precept being given generally to all Christians; to Kings and Magistrates as well as Subjects, if it be strictly urged, prohibits Kings and Magistrates to resist the violence and injuries of the people, as much as the people, not to repulse the Armed violence and oppressions of their Princes and Governours: and that Text of *Iames* 5. 6. *Ye have condemned and killed the just, and he doth not resist you,* (which some thinke is meant of Christ alone) proves onely, that some just men, and many Martyrs have beene condemned and killed without resistance, as our Saviour was; not that it is unlawfull to resist an open enemy, theefe or murtherer, who comes to kill, rob, or plunder us against Law and Conscience. I read of [f] Saint *Andrew*, that *when the people ran together in multitudes to rescue him out of the hands of a wicked man, and defend him from the injury of death, he teaching them both by word and example, exhorted them, not to hinder his martyrdome*; yet the people lawfully *rescued innocent Ionathan, from that unjust death which his Father King Saul twice vowed hee should undergoe*: Some mens patient suffering death and injuries without resistance, is no better an argument, that all therefore must so suffer without opposition, then that all men ought to yeeld their purses up to high-way theeves, or their persons, goods, ships, to Turkes and Pyrates, without fight or resistance, because some, yea many have shamefully done it for want of courage when they were able to resist, and so have deservedly lost their purses, shippes, goods, liberties, and become Turkish Gally-slaves, to the ruine of their estates, bodies, soules, which miseries by a manfull just defence, they might have easily prevented. All which considered; I see no ground in Scripture, nor reason, but that temporall enemies of all kindes which wrongfully invade our persons or estates by open force of Armes in a warlike manner, may be resisted with temporall weapons, as well as spirituall enemies with spirituall Armes.

[f] *Gratian Cauf 23. qu. 1. les Fleurs des vies des sanctes part. 2. p. 470. & 1 Sam. 14. 15. 38. to 46.*

Eighthly, That which all Nations in all ages by the very light of nature have constantly practised, as just and lawfull, must doubtlesse [h] be lawfull in point of conscience, if there be no Law of God to the contrary. But selfe-defence against invading Tyrants and their instruments hath by the very light of Nature beene constantly practised, by all Nations in all ages, as just and lawfull, which the premises, the Appendix, the Histories of all ages evidence; there being never any one Nation or Kingdome for ought I finde, that ever yet reputed it a thing unlawfull in point of Conscience; to resist the open malicious destructive tyranny, violence, hostility of their unnaturall Princes, or that desisted from any such resistance, giving themselves up willingly to their outragious lusts and butcheries, without any opposition (though some private men and Martyres have sometimes done it, upon particular reasons, as to avoid the scandall of Religion; to beare witnesse to the truth, for the confirmation and conversion of others; or for want of power or oportunity to resist; or to avoyd a generall massacre of their fellow Christians, or because they were onely a few private men; and their religion directly opposite to the Lawes and government under which they lived, or the like, not because they judged all resistance simply unlawfull, as [i] blinde Doctors falsely informe us, which I shall prove hereafter;) and there is no Law of God at all to prohibite such resistance: therefore doubtlesse it must be lawfull, even in point of conscience.

8.

[h] Rom. 2. 15.

[i] *Dr. Ferne resolving of Conscience; An appeale to thy Conscience.*

9. Ninthly, that which is directly oppoſite to what is abſolutely illegall, and unjuſt in point of conſcience, and the chiefe lawfull obſtacle and remedy, to prevent or redreſſe it, muſt certainely be juſt, be lawfull in the court of Conſcience, ſince that which is directly oppoſite to that which is ſimply ill, and unjuſt, muſt neceſſarily be good and juſt. But neceſſary juſt defence by force of Armes, is directly oppoſite to that open Armed violence, and tyranny which is abſolutely illegall and unjuſt in point of Conſcience, and the chiefe lawfull remedy and obſtacle to prevent or redreſſe it: as reaſon, experience and the premiſes evidence, Therefore it muſt neceſſarily be juſt and lawfull, even in the Court of Conſcience.

10. Tenthly, That reſiſtance which doth neither oppoſe the Kings royal perſon, nor lawfull Authority; muſt certainely be lawfull in point of conſcience: But the reſiſtance of the Kings Forces not accompanied with his perſon, in the execution of his unjuſt commands; is neither a reſiſtance of his Royall perſon, (for that is abſent, and his Cavalliers I hope are no Kings, nor yet inveſted with the priviledges of Kings; nor yet of his lawfull Authority;) his illegall Commiſſions and Commands, being meere nullities in Law, transferring no particle of his juſt Authority to thoſe who execute them. Therefore it muſt certainely be lawfull in point of conſcience.

11. Eleventhly, That reſiſtance which is the onely remedy to keepe not onely Kings themſelves, but every one of their Officers and Souldiers from being abſolute Tyrants, Monarchs; and the denyall whereof, equalizeth every ſouldier, and particular Officer to Kings, yea God himſelfe (whoſe prerogative only it is to have an * abſolute unreſiſtable wil;) muſt doubtleſſe be lawful in the Court of Conſcience. But this neceſſary defenſive reſiſtance now uſed by the Parliament and Subjects, is ſuch: For if they may not reſiſt any of the Kings Officers or Souldiers in their plunderings, rapines, fierings, ſackings of Townes, beating, wounding, murthering the Kings leige people and the like; will not every common Souldier and Officer be an abſolute Tyrant, equall in Monarchie to the great Turke himſelf, and *paramount* the King, who hath no abſolute irreſiſtable Soveraignety in theſe particulars? Either therefore this reſiſtance muſt be granted, not onely as lawfull, but ſimply neceſſary, elſe every officer and common Souldier will be more than an abſolute King and Monarch, every ſubject worſe than a Turkiſh ſlave, and expoſed to as many uncontrolable Soveraignes, as there are Souldiers in the Kings Army, be their conditions never ſo vile, their qualitie never ſo mean, and the greateſt Peeres on the Parliaments party, muſt be irreſiſtably ſubject to theſe new abſolute Soveraignes luſts and wills.

* Rom. 9. 19, 20.

12. Twelfthly, if all theſe will not yet ſatisfie Conſcience in the Lawfulneſſe, the juſtneſſe of the Parliaments and peoples preſent forcible reſiſtance of the Kings Captaines and Forces, though Armed with an illegall Commiſſion (which makes nothing at all in the caſe, becauſe voyd in Law) there is this one Argument yet remaining which will ſatisfie the moſt ſcrupulous, malignant, oppoſite Conſcience: That neceſſary forcible reſiſtance which is Authoriſed, and Commanded by the Supreameſt lawfull power and higheſt Soveraigne Authority in the Realme, muſt infallibly be juſt and lawfull, even in point of Conſcience, by the expreſſe Reſolution of *Rom.* 13. and our oppoſites owne confeſſion; *who have* [k] *no other Argument to prove the Offenſive warre on the Kings part Lawfull, but becauſe it is commanded; and the Parliaments and Subjects Defenſive Armes Unlawfull, but becauſe prohibited by the King, whom they falſely affirme, to be the higheſt Soveraigne power in the Kingdome, above the Parliament and*

[k] See Doctor *Ferne; Appeale to thy Conſcience; The Grand Rebellion; The Neceſſity of Chriſtian Subjection,* and others.

and whole Realme collectively considered. But this resistance of the Kings Popish malignant, invading Forces; is Authorized and Commanded by the expresse Votes and Ordinances of both Houses of Parliament, which I have already undeniably manifested, to be the Supreamest Lawfull Power, and Soveraignest Authority in the Realme, Paramount the King himselfe, who is but the Parliaments and Kingdomes Publicke Royall Servant for their good: therefore this Resistance must infallibly be just and Lawfull, even in Point of Conscience.

Thus much for the Lawfulnesse in Court of Conscience of resisting the Kings unjustly assaulting Forces, armed with his Commission: I now proceede to the justnesse of opposing them by way of forcible resistance when accompanied with his personall presence.

That the Kings Army of Papists and Malignants, invading the Parliaments or Subjects persons, goods, Lawes, Liberties, Religion, may even in Conscience bee justly resisted with force, though accompanied with his person, seemes most apparently cleare to me, not only by the preceeding Reasons, but also by many expresse Authorities recorded, and approved in Scripture, not commonly taken notice of: as,

First, By the ancientest precedent of a defensive warre that we read of in the world, *Gen.* 14. 1. to 24. where the five Kings of *Sodom*, *Gomorrah*, *Admah*, *Zeboiim*, and *Zoar*, rebelling against *Chedorlaomer* King of Nations, after they had served him twelve yeeres, defended themselves by armes and battle against his assaults, and the Kings joyned with him: who discomfiting these five Kings, pillaging *Sodom* and *Gomorrah*, and taking *Lot*, and his goods along with them as a prey: hereupon *Abraham himselfe, the Father of the faithfull*, in defence of his Nephew *Lot*, to rescue him and his substance from the enemie, taking with him 318. trained men of his owne family, pursued *Chedorlaomer*, and the Kings with him, to *Dan*, assaulted them in the night, smote and pursued them unto *Hoba*, regained all the goods and prisoners, with his Nephew *Lot*, and restored both goods and persons freely to the King of *Sodom*, thereby justifying his and his peoples forcible defence, against their invading enemies, in the behalfe of his captivated plundred Nephew and Neighbors.

Secondly, by the Example of the Israelites, who were not onely King *Pharaoh* his Subjects but Bondmen too, as is evident by Exod, ch. 1. to 12. Deut. 6. 21. c. 7. 8. c. 15. 15. c. 16. 12. c. 24. 18. 22. Ezra. 9. 9. Now *Moses* and *Aaron* being sent by God to deliver them from their *Ægyptian* bondage, after 430. yeares captivity, under colour of demanding but three dayes liberty to goe into the wilderneſse to serve the Lord, and *Pharaoh*, (notwithstanding all Gods Miracles and Plagues,) refusing still to let them depart, till enforced to it by the slaughter of the *Egyptians* first borne; as soone as the *Israelites* were marching away, *Pharaoh* and the *Ægyptians*, *repenting of their departure*, pursued them with their Chariots and Horses, and a great army even to the red Sea, to reduce them; hereupon the *Israelites* being astonished and murmuring against *Moses*, giving themselves all for dead men; *Moses sayd unto the people feare ye not, stand still, and see the Salvation of the Lord, which he will shew to you this day: for he Ægyptians whom you have seene to day, ye shall see them againe no more for ever, the Lord shall fight for you, &c. And hereupon God himselfe discomfited, routed, and drowned them all in the red Sea:* I would demaund in this case, whether the Israelites might not here lawfully (for their owne redemption from unjust bondage) have fought against and resisted their Lord, King *Pharaoh*, and his invading Host, accom-

panied with his preſence, had they had power and hearts to doe it, as well as God himſelfe, who fought againſt and deſtroyed them on their behalfe; If ſo, (as all men I thinke muſt grant, unleſſe they will cenſure God himſelfe) then a defenſive warre in reſpect of life and liberty onely, is juſt and Lawfull even in conſcience, by this moſt memorable ſtory.

3. Thirdly, by that example recorded *Iudges* 3. 8. 9. 10. where God growing angry with the *Iſraelites* for their Apoſtacie and Idolatry, ſold them (here was a divine title) into the hands of *Cuſhan-Riſhathaim* King of *Meſopotamia*, and the children of *Iſrael* ſerved him 8. yeares. Here was a lawfull title by conqueſt and 8 yeeres ſubmiſſion ſeconding it. But when the *children of Iſrael cryed unto the Lord, the Lord raiſed up a deliverer to them even Othniel, the ſonne of Kenaz: and the Spirit of the Lord came upon him, and he went out to warre, and the Lord delivered Cuſhan-riſhathaim King of Meſopotamia into his hands, and his hand prevailed againſt him, ſo the land had reſt 40. yeeres.* Loe here a juſt defenſive warre approved and raiſed up by God and his Spirit (in an ordinary manner only, as I take it, by encouraging the Inſtruments) wherein a conquering King, for Redemption of former liberties, is not onely reſiſted but conquered, taken priſoner, and his former dominion abrogated, by thoſe that ſerved him, as conquered ſubjects.

4. Fourthly, by the example of *Ehud*, and the *Iſraelites*, Iudges chap. 3. 11. to 31. where we finde, God himſelf ſtrengthning *Eglon* King of *Moab* againſt the *Iſraelites* for their ſinnes, who thereupon gathering an Army ſmote *Iſrael*, poſſeſſed their Cities, ſo as the *Iſraelites* ſerved this King 18. yeeres. Here was a title by conqueſt, approved by God, ſubmitted to by the *Iſraelites*: yet after all this, when the children of *Iſrael* cryed unto the Lord, he raiſed them up a deliverer, namely *Ehud*, who ſtabbing *Eglon* the King in the belly, under pretext of private conference with him, and eſcaping; he thereupon blew the trumpet, commanded the Iſraelites to follow him to the warre, ſlew ten thouſand valiant men of *Moab*, which he ſubdued, and procured reſt to his Country 40. yeeres. God, his Spirit, Word, approving this his action.

5. Fifthly, by the example of *Barack* and *Deborah*, Iudges *ch.* 4. and 5. Where God ſelling the children of Iſrael for their ſinnes into the hand of *Iabin* King of *Canaan*, and his Captaine *Siſera*, for 20. yeeres ſpace, during which he mightily oppreſſed them, hereupon *Barack*, at the inſtigation of the Propheteſſe *Deborah*, by the command of the Lord God of Iſrael, gathered an Army of ten thouſand men; which *Siſera*, and the King of *Canaan* hearing of, aſſembled all their Chariots and Army together, at the River of *Kiſhon*, where the Lord diſcomfited *Siſera* and all his Hoſt, with the edge of the ſword before *Barack* his Army, and ſubdued *Iabin* the King of *Canaan*, before the children of *Iſrael*: which warre is by a ſpeciall Song of *Deborah* and *Barack* highly extolled, and God in it, as moſt juſt and honorable: and this curſe denounced againſt thoſe that refuſed to aſſiſt in it, *Iudges* 4. 23. *Curſe ye Meroz* (ſaith the Angel of the Lord) *curſe ye bitterly the inhabitants thereof, becauſe they came not out to the helpe of the Lord, to the helpe of the Lord, againſt the mighty*; with this Corollary; *ſo let all thine enemies periſh O Lord: but let them that love thee be as the ſunne when it goeth forth in his might.* What more can conſcience deſire to juſtifie the lawfulneſſe of a juſt defenſive warre?

6. Sixthly, by the Example of *Gideon* and the Iſraelites, Iudges c. 6. Who being delivered

livered by God into the hands of the Prince of *Midian* for ſeven yeares, *Gideon* by ſpeciall incouragement and direction from God himſelfe, with a poore deſpicable Army of 300. men, defeated the great Hoaſt of the *Midianites*, and tooke and ſlew their Princes By theſe 4 laſt pregnant preſidents, it is moſt evident, that a forraigne King who hath gained a title onely by conqueſt (though with divine concurrence, by way of puniſhment for that peoples ſinne) may lawfully be reſiſted, repulſed, even after ſome yeares forced ſubjection and ſubmiſſion to him, by the people conquered, to regaine their former liberties.

Seventhly, by the precedent of *Abimelech* King of *Shechem*, who being elected King by the voluntary aſſents of the people, God afterwards ſending an evill ſpirit of diviſion between *Abimelech* and the men of *Shechem*; thereupon they revolted from him, and chuſing *Gael* for their Captaine, fortified the City againſt him; and when *Abimelech* came with an Army to take in the Towne, they in their defence, went forth and fought with him; reſiſted his ſeige; and they of the Tower of *Shechem* ſtanding upon their guard refuſed to ſurrender it after the Towne was ſurpriſed, and ſo were burnt. After which comming too neare the wals, at the Tower of *Thebez* aſſaulted by *Abimelech* he had his braines and head ſo bruiſed with the peece of a milſtone caſt downe upon him by a woman, that he called haſtily to his Armour-bearer, and ſaid unto him, draw thy ſword and ſlay me, that men ſay not of me; *a woman ſlew him*: whereupon he thruſt him through, that he dyed: and ſo every man departed to his place. Thus God rendred the wickedneſſe of *Abimelech*, and all the evill of the men of *Shechem* upon their own heads, *Judges* 9. So the Text. 7.

Eightly, by the example of *Iepthah*, who after that God had ſold the *Iſraelites* for their Idolatry into the hands of the children of *Ammon* 18. yeeres ſpace, *Iepthah* being made head and Captaine by the Elders and people of *Gilead*, firſt argued the caſe with the King of *Ammon* touching the unjuſtneſſe of his warre upon them, deſiring God to be Iudge betweene them; and then by Gods aſſiſtance, ſmote and ſubdued the *Ammonites* and their Cities, *Judg.* c. 11. And ſo caſt off their yoake. 8.

Ninthly, By the practiſe of *Sampſon*, who after God had delivered the *Iſraelites* into the hands of the Philiſtimes who ruled over them forty yeares ſpace, did by Gods extraordinary aſſiſtance oft encounter, ſlay and reſiſt the *Philiſtimes*, reſcuing the oppreſſed *Iſraelites* from their vaſſalage; and at his death ſlew more of them then in his life, *Iudg.* c. 13. to 17. which deliverance was afterwards perfected by *Samuel*, 1 *Sam* 7. and approved, nay, wrought by God. 9.

Tenthly, by the Example of *David*, who being perſecuted by ſedifragous diſſembling King *Saul* his father-in-law (a notable patterne of the inconſtancie and invalidtie of Kings ſolemneſt oathes and Proteſtations:) who contrary to many ſolemne vowes and feighned reconciliations, ſought unjuſtly to deprive him of his life; thereupon *David* retired from the Court, entertained a guard of foure hundred men, and became a Captaine over them. 1 *Sam.* 22. 2. After which *Abiather* eſcaping to him from *Nob* when the Prieſts there were ſlaine by *Doeg*, upon *Saules* command, for *Davids* ſake, *David* uſed theſe words to him. *Abide thou with me, feare not, for he that ſeeketh thy life ſeeketh my life, but with me thou ſhalt be in ſafeguard.* 1 *Sam.* 22. 23. Soone after the *Philiſtimes* beſeiging *Keilah*, *David* by Gods encouragement, ſmote them and ſaved *Keilah*; intending there to ſecure himſelfe and his men: which *Saul* hearing of, ſaid; *God hath delivered him into my hands, for he is ſhut in by entring into a* 10.

Towne which hath gates and barres, whereupon he called all the people together to beſeige David and his men: (which he needed not doe, did he or any elſe beleeve, that they would not, ought not to have made any forcible reſiſtance:) *David* informed hereof; enquired ſeriouſly of God, whether *Saul* would certainely come downe? and demanded twice of him: *will the men of Keilah deliver me and my men up into his hand?* And the Lord ſaid, *they will deliver thee up.* Had not *David* and his men reſolved to fortifie and defend themſelves there, if the men of *Keilah* would have beene faithfull to them, and beleeved they might have reſiſted *Saul* with his Forces, certainely he would never have preſumed to aske ſuch a queſtion twice together of God himſelfe, to receive his reſolution therein, neither would God have vouchſafed an anſwere thereto: but his double inquirie, and Gods reſolution, infallibly demonſtrate his intention to reſiſt, and the lawfulnes of his defenſive reſiſtance, would the *Keilites* have adhered to him. This the very next words fully cleare, 1 *Sam.* 23.13. *Then David and his men, about ſix hundred aroſe, and departed out of Keilah, and went whereſoever they could goe, and it was told Saul, that David was eſcaped from Keilah:* Gods prediction of the *Keilites* treachery was the onely cauſe of their departure thence, where they had reſolved to defend themſelves, of which hope being diſappointed beyond expectation, they went whitherſoever they could goe. After which *David* and his men being but few in number, not able in humane probability, without tempting God, to encounter *Sauls* great Forces, retired themſelves into woods, mountaines, rockes, ſtrong holds, wilderneſſes; where *Saul* purſuing them, they ſtill declined him: but had he and his army ever aſſaulted them, no doubt they would and might lawfully have defended themſelves, elſe why did they joyne themſelves in a body? why retire to ſtrong holds, and places of advantage? why * twice urge *David* to kill *Saul* in cold blood, when he did not actually aſſault him, but came caſually unawares within his danger? Why did *David* himſelfe ſay, even when he ſpared his life when he was a ſleepe, 1 *Sam.* 26. 10. *As the Lord liveth, the Lord ſhall ſmite him, or his day ſhall come to dye, or he ſhall deſcend into battell and periſh?* but that if he had given him battle, he might have defended himſelfe againſt him, though *Saul* ſhould caſually or wilfully periſh in the fight? And why was *David* ſo importunate to goe up againſt him with King *Achiſh* to the battle wherein he periſhed, 1 *Sam.* 29. were reſiſtance of him, in caſe he aſſaulted him, and his Forces, utterly unlawfull? This precedent of *David* then, if rightly weighed, is very punctuall, to prove the juſtneſſe of a defenſive warre, (of which more anon) and no evidence at all againſt it.

* 1 Sam. 23.13 to 29. c. 24. 1. to 20. &c. 26.

11. Eleventhly, by the practiſe of the 10. Tribes: who after their revolt from *Rehoboam* for giving them an harſh indiſcreet anſwere to their juſt demands, ſetting up another King and Kingdome, even by divine approbation; *Rehoboam* thereupon raiſing a great Army to fight againſt and reduce them to his obdience; God himſelfe by *Semaiah* the Prophet, ſent this expreſſe inhibition to *Rehoboam* and his Army: *Thus ſaith the Lord, ye ſhall not go up, nor fight againſt your brethren: returne every man to his houſe, FOR THIS IS DONE OF ME: Whereupon they obeyed the Word of the Lord and returned:* 1 Kings 12. 2 Chron. c. 10. and 11. After which long warres continued betweene theſe Kingdomes by reaſon of this revolt, wherein the ten Tribes and Kings of Iſrael ſtill defended themſelves with open force, and that juſtly, as the Scripture intimates 2 Chron. 12. 14 15. though that *Jeroboam* and the Iſraelites falling to Idolatry, were afterwards (for their Idolatry, not revolt) defeated by *Abiah* and the men of *Judah*, who relied upon God, 2 *Chron.* 13.

Twelfth-

Twelfthly, by the example of the King of *Moab* and his people, who Rebelling against *Iehoram* King of Israel, and refusing to pay the annuall Tribute of Lambes and Rammes, formerly rendred to him; hereupon *Iehoram*, *Iehoshaphat*, and the King of *Edom*, raising a great Army to invade them, the *Moabites* hearing of it, gathered all that were able to put on Armour, and upward, and stood in the border to resist them. 2 *King.* 3. 4. to 27. And by the practise of the *Edomites*, who revolting from under the hand of *Iudah*, made a King over themselves: Whereupon *Ioram* King of *Iudah* going up with his Forces against them to *Zair*, they encompassed him, in their owne defence; and though they fled into their Tents, yet they revolted from *Iudah* till this day, and *Libnah* too, 2 Kings 8. 20 21. 22. 12.

Thirteenthly, by the example of *Samaria*, which held out 3. yeeres siege against *Shalmanezer* King of *Assyria*, notwithstanding their King *Hoshea* had by force submitted himselfe and his Kingdome to him, and became his servant. 2 *Kings* 17. 3. to 10. c. 18. 9. 10. 13.

Fourteenthly, by the practise of godly *Hezechiah*, who after the Lord was with him and prospered him whithersoever he went, REBELLED against the King of *Assyria*, and served him not (as some of his predecessors had done) 2 *Kings* 18. 7. whereupon the King of *Assyria*, and his Captaines comming up against him with great Forces, and invading his Country, he not only fortified his Cities and encouraged his people manfully to withstand them to the uttermost, but actually resisted the *Assyrians* even by divine direction and encouragement; and upon his prayer, God himself by his Angel for his and Jerusalems preservation, miraculously slew in the Campe of the King of *Assyria* in one night, an hundred fourescore and five thousand mighty men of valour, Captaines and Leaders; so as he returned with shame of face to his owne Land, 2 King. c. 18. and 19. 2 Chron. c. 32. Isay c. 36. and 37. An Example doubtlesse lawfull beyond exception, ratified by God himselfe and his Angel too. 14.

Fifteenthly, by the examples of King *Iehoiakim*, and *Iehoiakin*, who successively rebelling against the King of Babylon who subdued and put them to a tribute, did likewise successively defend themselves against his invasions, seiges though with ill successe, by reason of their grosse Idolatries and other sins, (not of this their revolt and defence to regaine their freedomes, condemned only in *Zedekia*, for breach of his oath;) whereby they provoked God to give them up to the will of their enemies, and to remove them out of his sight, 2 King. c. 24. & 25 2 Chr. 36. Ier. c. 37. & 38 & 39. 15.

Finally, by the History of the Maccabees and wholestate of the Iews defensive wars under them, which though but Apochryphall in regard of the compiler, yet no doubt they had a divine Spirit concurring with them in respect of the managing and Actors in them. I shall give you the summe thereof, very succinctly. *Antiochus Epiphanes* conquering Ierusalem, spoyled it and the Temple, set up Heathenish customes and Idolatry in it, subverted Gods worship, destroyed the Bookes of Gods Law, forced the people to forsake God, to sacrifice to Idols, slew and persecuted all that opposed, and exercised all manner of Tyranny against them. Hereupon *Mattathias* a Priest and his Sonnes, moved with a godly zeale, refusing to obey the Kings Command in falling away from the Religion of his Fathers, slew a Iew that sacrificed to an Idoll in his presence, together with the Kings Commissary, who compelled men to Sacrifice, and pulled downe their Idolatrous Altar; which done they fled into the Mountaines, whither all the well-affected Iewes repaired to them. Whereupon the

* 2 Chron. 36. 13. Ezek. 17. 16. 18, 19.

Kings

Kings Forces hearing the premiſes purſued them, and warred againſt them on the Sabbath day; whereupon they out of an over-nice ſuperſtition o leaſt they ſhould prophane the Sabbath by fighting on it when aſſaulted, anſwered them not, neither caſt a ſtone at them, nor ſtopped the places where they were hid, but ſaid, let us dye all in our innocencie; heaven and earth ſhall teſtifie for us, that you put us to death wrongfully, whereupon they ſlew both them, their wives, and children, without reſiſtance, to the number of a thouſand perſons. Which *Mattathias* and the reſt of their friends hearing of, mourned for them right ſore, and ſaid one to another (marke their ſpeech) if we all doe as our brethren have done, and fight not for our lives, and Lawes againſt the Heathen, they will now quickly roote us out of the earth; therefore they decreed, ſaying; whoſoever ſhall come to make battle with us on the Sabbath day, we will fight againſt him, neither will we doe all as our brethren, that were murthered in their ſecret places. Whereupon they preſently gathered and united their Forces, aſſaulted their enemies, recovered their Cities, Lawes, Liberties; defended themſelves manfully, and fought many battles with good ſucceſſe againſt the ſeverall kings who invaded and layd claime to their Country, as you may reade at large in the bookes of Maccabees. All theſe examples, (moſt of them mannaged by the moſt pious, religious perſons of thoſe dayes, preſcribed and aſſiſted by God himſelfe, whoſe Spirit ſpecially encouraged, ſtrengthned the hands and Spirits of the undertakers of them (as P *Oſiander* well obſerves,) and therefore cannot be condemned as unjuſt, without blaſphemy and impiety:) in my opinion are a moſt cleare demonſtration of the lawfulneſſe of a defenſive warre (in point of Divinity and Conſcience) againſt Kings and their Armies who wrongfully invade or aſſault their Subjects, though themſelves be perſonally preſent in their armies, to countenance their unlawfull warres; and likewiſe evidence, that a Royall title gotten forcibly by conqueſt onely, though continued ſundry yeares, is not ſo valid in point of conſcience, but that it may be ſafely queſtioned, yea rejected; there being no true lawfull Title of Soveraignety over any people, but that which originally depends upon their owne free election, and unconſtrained ſubjection ſimply conſidered, or which is ſubſequently ſeconded therewith after a poſſeſſion got by force or conqueſt.

o 1 Mac. 2, 32. & 42.

p Enchirid. Controverſ. 6. 9. De Magiſtrat. Polit.

Now that the kings perſonall preſence cannot juſtifie the unjuſt actions, or protect the perſons of thoſe that aſſiſt him in any unlawfull action contrary to the Lawes of God, or the Realme, is a truth ſo evident, that it needes no proofe, it being no part of the kings Royall prerogative or Office, but diametrally repugnant to it, either to doe injury himſelfe, or to authorize, or protect others in committing it, as I have elſewhere proved at large. Therefore it can adminiſter no patronage nor defence at all to thoſe who accompany his perſon in the unjuſt invaſions of his Subjects, nor diſable them to defend or repulſe their unjuſt aſſaults and rapines. For ſuppoſe a King ſhould ſo farre degenerate and diſhonour himſelfe, as perſonally to accompany a packe of theeves who ſhould rob his ſubjects on the high way, break up their houſes in the night, or practiſe Piracie on the Sea, or commit Rapes or murthers on his people every where; I thinke no man ſo voyd of Reaſon, Law, Conſcience, but would readily grant, that the Subjects in all theſe caſes might lawfully defend themſelves by force againſt theſe Robbers, Theeves, Murtherers, notwithſtanding the Kings preſence or aſſociation with them, whoſe perſonall Prerogatives, and immunity from aſſaults or violence being incommunicable, underivable to any other, and peculiar to himſelf alone, he can transfer

transferre no such protection to others who accompany him in their injurious practises; and that these Acts of theirs are direct fellonie and murther, for which they might be justly apprehended, condemned, executed, though thus countenanced by the Kings owne presence. And if this be truth (as our Law-bookes resolve, and the Scripture to in places forecited) the kings presence can no more deprive the subjects of their necessary just defence against his Popish Forces assaults, nor justifie their proceedings, or the present unjust offensive warre, then in the former cases, there being the selfe-same reason in both; warres being in truth, but greater and more detestable Murders, and Robberies, when they are unjust, as [q] *Cyprian*, [r] *Augustine*, with [s] others rightly define.

[q] *Epist. l. 2. Ep. 2. Donato.*
[r] *De Ciu. Dei. l. 4 c. 4.*
[s] *Ossiander; Enchrid. Cont. c. 9: De Polit. Magist. qu. 3. p. 203. Aber. Gentilis de Iure Belli. l. 1. c. 5. Hugo Grotius, de Iure Belli l. 2, c. 1. §. 2.*

Thirdly, personall unjust assaults and violence even of Kings themselves may in some cases lawfully be resisted by subjects; This Doctor *Perne* himselfe acknowledgeth, *Sect.* 2. p. 9. *Personall defence is lawfull against the sudden (much more then against the premeditated) and illegall assaults of such Messengers of the King: yea, OF THE PRINCE HIMSELFE THUS FARRE, to ward his blowes, to hold his hands and the like: not to endanger his person, not to returne blowes; no: for though it be naturall to defend a mans selfe, yet the whole common-wealth is concerned in his person:* the king therefore himselfe, (much more in his Cavalliers) may thus farre at least safely be resisted in point of conscience. And that he may be so indeed is manifest by two pregnant Scripture examples, The first is that of King *Saul*, 1 *Sam.* 14. 38. to 46. where *Ionathan* and his Armour-bearer, routing the Philistimes whole Army, violated his Father *Sauls* command, of which he was wholy ignorant in taking a little honey one the end of his sticke in the pursuite; hereupon king *Saul*, most rashly and unjustly vowed twice one after another, to put him to death: whereupon the people much discontented with this injustice, were so farre from submitting to the Kings pleasure in it, that they presently said to the king: *shall Jonathan dye, who hath wrought so great Salvation in Israel? God forbid: As the Lord liveth there shall not one haire of his head fall to the ground, So the people RESCVED JONATHAN that he dyed not*; though he were not onely King *Sauls* Subject, but Sonne too. Indeede it appeares not in the Text, that *Saul* offered any violence to *Ionathans* person, or the people to *Sauls*: and it may be the peoples peremptory vow and unanimous resolution to defend *Jonathan*, from this unjust sentence of death against him, made *Saul* desist from his vowed bloody intendment: but the word *rescued*, with other circumstances in the story, seeme to intimate, that *Ionathan* was in hold to be put to death, and that the people forcibly rescued him, out of the executioners hands. However, certainely their vow and speeches declare, that if *Saul* himselfe or any other by his command had assaulted *Ionathan* to take away his life, they * would have forcibly resisted them and preserved his life, though with losse of their owne, beleeving they might lawfully doe it, else they would not have made this resolute vow; nor could they have performed it, had *Saul* wilfully proceeded, but by a forcible rescue and resistance of his personall violence. The other is that of king *Vzziah*, 2 *Chron.* 27. 16. to 22. who presumptuously going into the Temple against Gods Law, to burne incense on the Altar, *Azariah* the high Priest, and with him fourescore Priests of the Lord, that were valiant men went in after him, and WITHSTOOD (or resisted) *Vzziah* the king; and said unto him; *It appertaineth not unto thee Vzziah to burne incense unto the Lord, but to the Priests the sonnes of Aaron, that are consecrated to burne incense:*

* *Iosephus Antiq. Iudæ l. 4. c. 8. p. 104.*

incenſe: goe out of the Sanctuary for thou haſt treſpaſſed, neither ſhall it be for thine honour from the Lord God. Then Vzziah was wroth, and had a cenſor in his hand to burne incenſe, and whiles he was wroth with the Prieſts, the Leproſie roſe up in his forehead: And Azariah, and all the Prieſts looked upon him, and behold he was Leprous in his forehead: AND THEY THRVST HIM OVT FROM THENCE; yea himſelfe haſted alſo to goe out, becauſe the Lord had ſmitten him. If then theſe Priests thus actually reſiſted king *Vzziah* in this ſinfull Act, thruſting him perforce out of the Temple when he would but offer incenſe; much more might they, would they have done it, had he violently aſſaulted their perſons. If any king ſhall unjuſtly aſſault the perſons of any private Subjects, men or women, to violate their lives or chaſtities (over which they have no power) I make no doubt, that they may and ought to bee reſiſted, repulſed, even in point of conſcience, but not ſlaine; though many kings have loſt their lives, upon ſuch occaſions: as [f] *Rodoaldus* the 8. king of *Lumbardy* *Anno 659.* being taken in the very act of adultery by the adultereſſes husband, was ſlaine by him without delay; and how kings attempting to murther private Subjects unjuſtly, have themſelves beene ſometimes wounded, and caſually ſlaine, is ſo riſe in ſtories, that I ſhall forbeare examples: concluding this with the words of [t] *Ioſephus*, who expreſſely writes. That the king of the Iſraelites (by Gods expreſſe Law, *Deut.* 17.) was to doe nothing without the conſent of the high Prieſt and Senate, nor to multiply money and horſes over much, which might eaſily make him a contemner of the Lawes; and if he addicted himſelfe to theſe things more than was fitting, HE WAS TO BE RESISTED, leaſt he became more powerfull then was expedient for their affaires.

[f] *Philip. de Mouſk. Chr. l. 4. Dr Beards Theatre of Gods Iudgements l. 2. c. 29. p. 400.*

To theſe Authorities, I ſhall onely ſubjoyne theſe 5. undeniable arguments to juſtifie Subjects neceſſary defenſive wars, to be lawful in point of conſcience againſt the perſons and Forces of their injuriouſly invading Soveraignes.

1. First, it is granted by all as a truth irrefragable, that kings by Force of Armes may juſtly with ſafe conſcience, reſiſt, repulſe, ſuppreſſe the unlawfull warlike invaſive aſſaults, the Rebellious armed Inſurrections of their Subjects, upon theſe two grounds, becauſe they are [u] unlawfull by the Edicts of God and man, and becauſe kings in ſuch caſes, have no other meanes left to preſerve their Royall perſons, and juſt authoritie againſt offenſive armed Rebellions, but offenſive armes: Therefore Subjects by the ſelfe-ſame grounds, may juſtly with ſafe conſciences reſiſt, repulſe, ſuppreſſe the unjuſt aſſayling military Forces of their kings in the caſe fore-ſtated, though the king himſelfe be perſonally preſent and aſſiſtant, becauſe [x] ſuch a war is unlawfull by the reſolution of God and men, and againſt the oath, the duty of kings: and becauſe the ſubjects in ſuch caſes have no other meanes left to preſerve their perſons, lives, liberties, eſtates, religion, eſtabliſhed government from certaine ruin, but defenſive Armes. There is the ſelfeſame reaſon in both caſes, being relatives, therefore the ſelfeſame Law and Conſcience in both.

[u] *Numb. 16. Rom. 13. 1. to 6. 1 Pet. 2. 13. 14.*

[x] *Eſay 14. 19. to 23. Ezech. 44. 15. 16. 17. Zech. 11. 4. 5. 2 King. 25. 2 King. 24. 4.*

2. Secondly, It muſt be admitted without debate; that this office of higheſt and greateſt truſt, hath a condition in Law annexed to it (by *Littletons* owne reſolution) to wit, *that the King ſhall well and truely preſerve the Realme, and do that which to ſuch Office belongeth*; which condition our king by an expreſſe oath to all his people ſolemnely taken at their Coronation, with other Articles expreſſed in their oath (formerly recited) is really bound both in Law and Conſcience exactly to performe, being admitted

[y] *Eſtates upon Credit. 1. Sect. 378. 379.*

[z] *Part. 1. p. 31. to 74.*

ted and elected king by the peoples suffrages upon solemne promise, to observe the same condition to the uttermost of his power, as I have [e] elsewhere cleared. Now it is a cleare case resolved by [f] *Marius Salamonius*, confirmed at large by *Rebuffus* by 12. unanswerable reasons, the Authorities of sundry Civill Lawyers, and *Canonists* quoted by him.; agreed by [d] *Albericus Gentilis*, and *Hugo Grotius*, who both largely dispute it; *That Kings as well as Subjects are really bound to performe their Covenants, Contracts, Conditions, especially those they make to all their Subjects, and ratifie with an Oath; since God himselfe who is most absolute, is yet most [g] firmely obliged by his Oathes and Covenants made to his despicable vile creatures, sinfull men; and never violates them in the least degree.* If then these conditions and Oathes be firme and obligatory to our kings; if they will obstinately breake them, by violating their Subjects Lawes, Liberties, Properties, and making actuall warre upon them; the condition and Oath too would be meerely voyde, ridiculous, absur'd, an high taking of the Name of God in vaine, yea a plaine delusion of the people, if the whole State or people in their owne defence might not justly take up Armes, to resist their kings and their malignant Forces in these perfidious violations of trust, conditions, oaths; and force them to make good their oaths and covenants, when no other meanes will induce them to it. Even as the Subjects oath of homage and allegiance is would be meerely frivilous, if kings had no meanes nor coercive power to cause them to observe these oathes, when they are apparently broken: and many whole kingdomes had been much overseene in point of Policie, or prudence, in prescribing such conditions and oaths unto their kings, had they reserved no lawfull power at all which they might lawfully exercise in point of conscience, to see them really performed, and duely redressed, when notoriously transgressed, through wilfulnesse, negligence, or ill pernicious advice.

[e] Part. 1 p. 51
[f] *De Princip.* l. 1. c. 1. 6.
[d] *Præfat. ad Rub. de collationibus*, p. 583 584.
[g] *De Iure Belli.* l. 2. c. 12, 13. l. 3 c. 14, 15, 16
[i] *De Iure Belli & Pacis* l. 2. c. 11. 12, 13, 14.
[f] Gen. 9. 9. 16 c. 17 7. 13. Psal. 89. 28. 34. Psal. 105 10. Psal. 111. 9. Esay 55. 3. Esay 33. 20. 2 Iosh. 21. 45. c. 23. 14. Heb 6. 17. 18
[g] *Grotius De Iure Belli* l. 2. c. 14. Sect. 3.

Thirdly, when any common or publick trust is committed to three or more, though of subordinate and different quality, if the trust be either violated or betrayed, the inferiour trustees, may and ought in point of Conscience to resist the other. For instance; if the custody of a City or Castle be committed to a Captaine, Leiutenant, and common Souldiers: or of a ship to the Master, Captaine, and ordinary Mariners: If the Captaine or Master will betray the City, Castle, or ship to the enemie or Pirates; or dismantle the City wals and fortifications to expose it unto danger, or will wilfully run the ship against a rocke to split, wrecke it, and indanger all their lives, freedomes, contrary to the trust repoted in them; or fire or blow up the City, Fort, ship: not onely the Leiutenant, Masters Mate, and other inferiour Officers, though subject to their commands, but even the Common Souldiers and Marriners may withstand and forcibly resist them, and are bound in Conscience so to doe, because else they should betray their trust, and destroy the City, Fort, ship, and themselves too, which they are bound by duty and compact to preserve. This case of Law and conscience is so cleare, so common in daily experience that no man doubts it: The care and safety of our Realme by the originall politicke constitution of it, alwayes hath beene and now is, committed joyntly to the king, the Lords, and Commons in Parliament, by the unanimous consent of the whole kingdome. The king the supreame member of it, contrary to the trust and duty reposed in him, through the advise of evill Councellors wilfully betrayes the trust and safety of this great City and ship of the Republicke; invades the inferiour Commanders, Souldiours, Citizens, with an Army: assaults, wounds, slayes, spoyles, plunders, sackes, imprisons his fellow trustees, Souldiers, Marriners,

3.

Marriners, Citizens, undermines the walls, fires the City, ſhip, delivers it up to theeves, Pyrates, murtherers, as a common prey, and wilfully runnes this ſhip upon a rocke of ruin. If the Lords and Commons joyntly intruſted with him, ſhould not in this caſe by force of Armes reſiſt him, and his unnaturall inſtruments, (there being no other meanes elſe of ſafety left them) they ſhould ſinfully and wiltully betray their truſt, and be ſo farre from keeping a good Chriſtian Conſcience in not reſiſting by force, that they ſhould highly ſinne againſt Conſcience, againſt their truſt and duty, againſt their naturall Country, yea and their very Allegiance to the king himſelfe, by encouraging him in, and conſenting unto theſe proceedings, which would make him not to be a king, but Tyrant, and deſtroy him as a king, in the ſpoyle and ruine of his Kingdome, thereby endangered to be conſumed) and tempt God himſelf: as *Pope Nicholas*, and * *Gratian* reſolve in theſe words. *If there be no neceſſity we ought at all times to abſtaine from warres, but if inevitable neceſſity urge us, we ought not to abſtaine from warres, and warlike preparations for the defence of our ſelves, of our Country, and paternall Lawes, no not in Lent, leaſt man ſhould ſeeme to tempt God, if when he hath meanes, he provide not for his owne and others ſafety, and prevents not the Detriments of holy religion.*

Fourthly, thoſe injuries which Allies and other neighbour States or Princes may with good Conſcience repulſe with Armes from Subjects wrongfully oppreſſed, invaded tyrannically by their Soveraignes, or their wicked Inſtruments, at, or without the Subjects intreaty, when they are unable to relieve themſelves; no doubt the Subjects themſelves, if able, may with better reaſon, and as good Conſcience reſiſt and repell; becauſe every man is [n] nearer, and more obliged to defend and preſerve himſelfe and thoſe of his owne Nation, Religion, blood, then ſtrangers are, and may with leſſe publick danger, inconvenience, and more ſpeede effect it, then Forraigners: but Allies and Forraigne Neighbour States and Princes, as [x] *Gratian* (out of the 5. Councell of *Carthage*; *Auguſtine*, *Ambroſe*, *Hierom*, *Anaſtatius*, *Caliſtus* and other) [y] *Albericus Gentilis*, [z] *John Bodin*, [a] *Hugo Grotius*, and Generally all *Canoniſts*, *Caſuiſts*, *Schoolemen* accord, may in many caſes with good conſcience, by force of Arms repulſe from Subjects wrongfully oppreſſed, invaded, and tyrannically abuſed, the injuries offered them by their Soveraignes; and that either at, and in ſome caſes without the Subjects intreaty: Which they prove by *Moſes* his ſlaying the *Ægyptian* that oppreſſed the *Hebrew*, *Exod.* 2. 11. to 15. by *Joſhua* his ayding of the *Gibeonites* againſt the five Kings that made war againſt them, *Joſh.* 10. by the example of *Jehoſhaphat*, 1 *Kin.* 22, 2 *Kings* 3. Of the chiefe Captaines ſecuring *Paul* with a gard of Souldiers againſt the Iews who had vowed his death, *Acts* 23. by *Abrahams* reſcuing *Lot*, *Gen.* 14. by ſundry ancient and late Examples in ſtory. Therfore Subjects themſelvs no doubt if able, may with good reaſon and conſcience, lawfully reſiſt, and repell their Princes invading Forces, though accompanied, aſſiſted with his perſonall preſence.

Fifthly, It is yeelded by all Divines, Lawyers, Canoniſts, Schoolemen; as [c] *Gratian*, [d] *Banes*, [e] *Soto*, [f] *Leſſius*, [g] *Vaſquius*, [h] *Covaruvius*, [i] *Aquinas*, [k] *Sylveſter*, [l] *Bartolus*, [m] *Baldus*, [n] *Navarre*, [o] *Albericus Gentilis*, [p] *Grotius* and others, that private men by the Law of God, and nature, may in defence of their lives, chaſtities, principall members, and eſtates, lawfully reſiſt all thoſe who forcibly aſſault them, to deprive them thereof; yea and ſlay them to, unleſſe they be publicke perſons of eminencie, by whoſe ſlaughter the Commonweale ſhould ſuſtaine much prejudice, whoſe lives in ſuch caſes

* *Cauſ.* 23. *quæſt.* 8. *Suri. Concil. Tom.* 3 p. 520.
[b] Lev. 19. 18. Mat. 22. 39. Rom 9 3. c. 14. 4. 1 Cor. 9. 27. Phil. 2. 12. 1 Tim. 5. 8
[c] *Diſt.* 23. *qu.* 3. to 8.
[d] *De Iure Bell.* l. 1. c. 14. 15. 16.
[e] *Common-weale.* l. 2. c. 5. l. 5. c. 6. ſect 2. l. 3. c. 25. *Sect.* 4. 5. 6.
[f] *Cajetan.* 2a. 2æ. *qu.* 4. *ar.* 1. *Ambroſe*, *Offic.* l. 1. c. 36. *Summa Angelica*, *Roſella & Sylveſter*, *Tit. Bellum*, and the Gloſſers on *Gratian*, *Cauſa.* 23. *qu.* 3.
(c) *Cauſ.* 23. *qu.* 1. 2. [d] 1a. 2æ. *qu.* 90. *art.* 10. & *qu.* 64. *ar.* 7. *dub.* 4.
[e] l. 4. *diſp.* 5. *ſect.* 10. l. 5 *qu.* 1. *art.* 8. [f] lib. 11 c. 9. *du.* 8.
[g] l. 1. *Contr. Iliuſt.* 18. [h] P. 3. *c.* 1 *n.* 2. 2a. 2æ. *qu.* 64 *art.* 1. [i] *Verbo Bellum*, *par.* 1. *n.* 3. & *par.* 2. & *Homicidium.* 3. *q.* 4. [k] ad l. ut vim *Di de Juſt. & Iure.* [l] *In rep.* l. 1. & *unde vi.* [m] l. 11. c. 3. *n.* 147.
[n] *De Iure Bel.* l. 2. c. 13. 14.
[o] *De Iure Bel.* l. 2. c. 1.

cases must not be willingly hazzarded, though their violence be resisted: which is cleerely prooved by *Iudges* 11. 8. 15. to 18. 1 Sam. 17. 41. to 53. *Deut.* 22. 26. 27. since therefore all these are apparently indangered by an invasive warre and Army, more then by any private assaults; and no ayde, no assistance or protection against the losse of life, chastitie, estate, and other violences, injuries which accompany wars can be expected from the Lawes, or Prince himself (the fountaine of this injustice,) or legall punishments inflicted on the malefactors, whose armed power being above the reach of common justice, and injuries countenanced, abetted, authorised by the Soveraigne who should avenge and punish them, every subject in particular, and the whole state in Parliament assembled in generall, may and ought in point of conscience joyntly and severally to defend themselves, their neighbours, brethren, but especially their native Countrey, Kingdome, whose generall safety is to be preferred before the lives of any particular persons, how great or considerable soever, which may be casually hazarded by their owne wilfulnesse, though not purposely endangered or cut off in the defensive incounter, by those who make resistance. And if (according to [q] *Cajetan* and other Schoolemen,) Innocents which onely casually hinder ones flight from a mortall enemie may be lawfully with good conscience slaine by the party pursued, in case where he cannot else possibly escape the losse of his owne life, because every mans owne life is dearer to him then anothers, which he here takes away onely to preserve his owne life, without any malicious murtherous intent, though others doubt of this case: or if innocent persons set perforce in the front of unjust assailants (as by the Cavalleires at *Brainford* and elsewhere,) to prevent defence, and wrong others with more securitie and lesse resistance, may casually be slain, (though not intentionally) by the defensive party (as I thinke they may) for prevention of greater danger and the publicke safety; then certainely those of publicke place and Note; who wilfully and unnaturally set themselves to ruine their Country, Liberty, Religion, Innocent brethren (who onely act the defensive part,) and voluntarily intrude themselves into danger, may questionlesse with safe conscience be resisted, repulsed: in which if they casually chance to lose their lives without any malice or ill intention in the defendants, it being onely through their owne default, such a casuall accident when it happens, or the remote possibility of it in the combate before it begins, cannot make the resistance either unjust or unlawfull in point of conscience; for then such a possibility of danger to a publike person should make all resistance unlawfull, deprive the Republicke wholly of this onely remedy against tyrannicall violence, and expose the whole common-weale to ruine, whose weale and safety, is to be preferred before the life or safety of any one member of it whatsoever.

[q] 2. *Ar.* 6. 7. 2. *Card.* in. 33. li 1. *Petr. Nau.* l. 11. c. 3. n. 147 *Grotius de Iure Bell.* l. 2. c. 1. *Sect.* 9.

[r] See the Relation of *Brainford*.

Having thus at large evinced the lawfulnesse of Subjects necessary forcible resistance, & defensive wars against the unjust offensive Forces of their Soveraignes; I shall in the next place answere the principall arguments made against it, some whereof (for ought I finde) are yet unanswered.

These Objections are of foure sorts, out of the Old Testament, the New; from reason, from the example of the primitive Christians, backed with the words of some Fathers; I shall propound and answere them in order.

The first out of the Old Testament, is that of *Numb.* 16. [u] *Korah, Dathan,* and *Abiram* for their insurrection against that very divine Authority which God himselfe had delegated to *Moses* and *Aaron*, without any injury or injustice at all once offered

Object. 1.

[u] Dr. *Ferne Sect.* 2. p. 20.

offered to them or any aſſault upon them. Ergo (marke the Non-ſence of this argumentation) no Subjects may lawfully take up meere neceſſary defenſive Armes in any caſe to reſiſt the bloody Tyrannie, Oppreſſion, and outrages of wicked Princes, or their Cavalleires, when they make warre upon them to deſtroy or enſlave them.

Anſw. An Argument much like this in ſubſtance. No man ought to riſe up againſt an honeſt Officer or Captaine in the due execution of his Office, when he offers him no injury at all. Therefore he ought not in conſcience to reſiſt him when he turnes a theefe or murtherer, and felloniouſly aſſaults him, to rob him of his purſe, or cut his throate. Or, private men muſt not cauſeleſly mutinie againſt a lawfull Magiſtrate for doing juſtice and performing his duty: *Ergo* the whole Kingdome in Parliament may not in Conſcience reſiſt the Kings Captaines and Cavalleeres, when they moſt unnaturally and impiouſly aſſault them to take away their Lives, Liberties, Priviledges, Eſtates, Religion, oppoſe and reſiſt juſtice, and bring the whole Kingdome to utter deſolation. The very recitall of this argument is an ample ſatisfactory refutation of it, with this addition. Theſe ſeditious Levites Rebelled againſt *Moſes* and *Aaron*, onely becauſe God himſelfe had reſtrained them from medling with the Prieſts Office which they would contemptuouſly uſurpe, and therefore were moſt ſeverely puniſhed by God himſelf, againſt whoſe expreſſe Ordinance they Rebelled: *Ergo*, the Parliament and Kingdome may in no caſe whatſoever, though the King be bent to ſubvert Gods Ordinances, Religion, Lawes, Liberties, make the leaſt reſiſtance againſt the king or his invading forces, under paine of Rebellion, High Treaſon, and eternall condemnation, This is Doctor *Ferne's* and ſome others, Bedlam Logicke, & Divinity.

Object. 2. The next is this, *Thou ſhalt not revile the Gods, nor curſe the Ruler of thy people, Ex. 22. 28. Eccl. 10. 20. Curſe not the King no not in thy thought, and curſe not the rich in thy bed-Chamber;* (which is well explained by *Prov. 17. 26. It is not good to ſtrike Princes for equitie.*) *Ergo* it is unlawfull for the Subjects to defend themſelves againſt the Kings Popiſh depopulating Cavaleers.

* An appeale to thy Conſcience. p. 3. 4. 5.

Anſw. I anſwer, the firſt text pertaines properly to Judges and other ſorts of Rulers, not to Kings, not then in being among the Iſraelites: the ſecond, to *rich men as well as Kings*. They may as well argue then from theſe texts: that no Iudges nor underrulers, nor rich men whatſoever, though never ſo unjuſt or wicked, may or ought in conſcience to be reſiſted in their unjuſt aſſaults, Riots, Robberies, no though they be bent to ſubvert Religion, Lawes, Liberties: as that the King and his Souldiers joyntly or ſeverally conſidered, may not be reſiſted: yea, theſe acute diſputants may argue further by this new kinde of Logicke: Chriſtians are expreſly prohibited to curſe or revile any man whatſoever, under paine of damnation, *Rom. 12. 14. Mat. 5. 44 Levit. 19. 14. Numb. 23. 7. 8. 2 Sam. 16. 9. Levit. 20. 9. c. 24 Pſ. 14. 23. Levit. 20. 9: Prov. 20. 20. 1 Cor. 6. 10 1 Cor. 4. 12. 1 Pet. 2 23. Jude 9. Ergo*, we ought to reſiſt no man whatſoever, (no not a theefe that would rob us, cut-throate Cavaleers that would murther us, lechers that would raviſh us) under paine of damnation. What pious profitable Doctrine, thinke you, is this: All curſings and raiſings are ſimply unlawfull in themſelves: all reſiſtance is not ſo, eſpecially that neceſſary we now diſcourſe of, againſt unlawfull violence to ruine Church and State. To argue therefore, all reſiſtance is ſimply unlawfull, becauſe curſing and reviling (of a different nature) are ſo, is ill Logicke, and worſe Divinity. If the objectors will limit their reſiſtance, (to make the Argument ſenſible,) and propoſe it thus: All curſing and reviling

viling of Kings and Rulers for executing justice impartially (for so is the chiefe intendment of the place objected, delinquents being apt to clamour against those who justly censure them) is unlawfull; *Ergo* the forcible resisting of them in the execution of justice and their lawfull authority is unlawfull: the sequell I shall grant, but the Argument will be wholy impertinent, which I leave to the Objectors to refine.

Object. 3. [p] An Appeale to thy Conscience p. 2.

The third Argument is this: *That which peculiarly belongs to God, no man without his speciall authority ought to meddle with*: But *taking up Armes peculiarly belongeth to the Lord. Deut* 32 35. Where the Lord saith, *vengeance is mine: especially the sword, which of all tem, or all vengeance is the greatest.*

Answ.

The Objector puts no *Ergo*, or conclusion to it, because it concludes nothing at all to purpose, but onely this. *Ergo*, The King and Cavalleeres must lay downe their Armes and swords, because God never gave them any speciall commission to take them up. Or, *Ergo*, no man but God must weare a sword, at least of revenge; and whether the kings and Cavalleers Offensive, or the Parliaments meere Defensive sword, be the sword of vengeance and malice, let the world determine, to the Objectors shame.

Object. 4. [q] Appeale to thy Conscience. p. 3.

The fourth is, from [q] *Eccles.* 8. 2. 3. 4. *I councell thee to keepe the Kings Commandment and that in regard of the Oath of God: Be not hasty to goe out of his sight, stand not in an evill thing; for he doth whatsoever pleaseth him: where the word of a king is there is power; and who may say unto him, what dost thou?*

Answ.

This Text administers the Opposites a double Argument, The first is this; All the Kings Commands are to be kept of all his Subjects, by vertue of the Oathes of supremacy, alleigance, and the late protestation including them both: *Ergo*, by vertue of these Oathes we must not resist his Cavalleeres, but yeeld our thoates to their swords, our purses and estates to their rapines, our chastities to their Lecheries, our Liberties to their Tyrannies, our Lawes to their lusts, our Religion to their Popish Superstition and Blasphemies, without any opposition, because the king hath oft commanded us not to resist them. But seeing the Oath and Law of God, and those oathes of ours, obleige us onely, to obey the Kings just legall commands and no other, not the Commands and lusts of evill Councellors and Souldiers, this first Argument must be better pointed ere it will wound our cause.

The second, this: The king may lawfully do whatsoever pleaseth him *Ergo*, neither are He, or his Forces to be resisted To which I answer, that this verse relates onely unto God, the next antecedent; *who onely doth and may doe what he pleaseth, and that both in heaven and earth, Psal.* 135 6. *Psal.* 115. 3 *Esay* 46. 10. not to Kings who neither may nor can doe what they please in either, being bound both by the Laws of God, man, and their Coronation Oathes (perchance the oath of God here meant, rather then that of supremacie or alleigance) to *do not onely what is lawfull and just*, not what themselves shall please. But admit it meant of Kings, not God: First the text saith not, that a king may lawfully doe what he pleaseth: but he doth whatsoever pleaseth him: *Solomon* himselfe [r] committed idolatry, built Temples for Idolatrous worship, served his idolatrous wives Gods, married with many idolatrous wives, greivously oppressed his people, &c. for which God threatned to rent the kingdome from himself, as he did the ten Tribes from his son, for those sinnes of his: [t] *David* committed adultery, and wilfully numbred the people; and what King *Jeroboam*, *Manasseth*, *Ahab*,

[r] 1 Sam. 23. 3. Esay 32. 1. c. 16. 5. c. 9. 7. 2 Chron. 9 8.

[s] 1 King. c. 11. & 12. 2 Chr. c 9 & 10. & 11. Neh. 13. 26.

[t] 2 Sam. c. 11. & 12. & 24.

Ahab, other wicked Kings have done, out of the pleaſure and freedome of their lawleſſe wills, to the infinite diſhonour of God, the ruine of themſelves, their poſterities, Kingdomes, is ſufficiently apparent in [u] *Scripture*: was all therefore juſt, lawfull, unblameable, becauſe they did herein whatſoever they pleaſed, not what was pleaſing to God? If not, as all muſt grant: then your foundation failes; that Kings may lawfully doe whatſoever they will; and *Solomons* words muſt be taken all together not by fragments; and theſe latter words coupled with the next preceeding; *Stand not in an evill matter*: and then *Pauls* words will well interpret his, *Rom.* 13.4. *But if thou doe that which is evill be afraid, for he beareth not the ſword in vaine, for he is the miniſter of God, a revenger to execute wrath upon them that doe evill.* So that the genuine ſence of the place is, and muſt be this. *Stand not in an evill matter*, for the king hath an abſolute power to doe whatſoever he pleaſeth, in way of juſtice to puniſh thee, if thou continue obſtinate in thy evill courſes; to pardon thee, if thou confeſſe, ſubmit, and crave pardon for them. *Ergo*, the king and his Cavalleeres have an abſolute power to murther, plunder, deſtroy his Subjects, ſubvert Religion, and he and his Forces muſt not herein be reſiſted, is an ill conſequent from ſuch good premiſes.

[u] In the bookes of *Kings, Chronicles, Ieremiah, and Daniel.*

The third is this: *Where the word of a King is, there is power,* * *and who may ſay unto him what doſt thou?* (that is, *expoſtulate with, cenſure him for doing juſtly*, as *Iob* 34.17. 18. 19. expound it,) *Ergo* the king or his Forces may not be reſiſted in any caſe: they might rather conclude. Therefore neither Kingdome nor Parliament, nor any Subject or perſon whatſoever ought to demand of the king, to what end, or why he hath raiſed Forces and Armed Papiſts againſt the Parliament, and Proteſtant Religion? Theſe Court-Doctors might as truely conclude from hence: If the king ſhould command us to ſay Maſſe in his Chappell, or our Pariſhes, to adorne Images, to turne profeſſed Maſſe-prieſts, &c. to vent any Erronious Popiſh Doctrines; to pervert the Scriptures to ſupport Tyrannie and lawleſſe cruelty: we muſt and will (as ſome of us doe) cheerefully obey; for *where the word of a King is, there is power, and we may not ſay unto him, what doſt thou?* If a King ſhould violently raviſh matrons, defloure virgins; unnaturally abuſe youth, cut all his Subjects throates, fire their houſes, ſacke their Cities, ſubvert their liberties; and (as [x] *Bellarmine* puts the caſe of the Popes abſolute irreſiſtible authority) ſend millions of ſoules to hell; yet no man under paine of damnation, may or ought to demande of him, *Domine cur ita facis?* Sir, what doe you? But was this the holy Ghoſts meaning thinke you, in this place? If ſo, then [y] *Nathan* was much to blame for *reprehending king Davids Adultery.* [z] *Azariah and the 40. Prieſts who withſtood King Vzziah when he would have offered incenſe, on the incenſe Altar, and thruſt him out of the Temple, telling him, it pertaineth not to thee Vzziah, to burne incenſe to the Lord, &c. Were no leſſe then Traytors. John Baptiſt* was much over-ſeene to tell King *Herod, It is not lawfull for thee to have thy brothers wife.* The Prophet who ſharpely reprehended *Amaziah* for his Idolatry and new altar, 2 *Chron* 25. 15. 16. was juſtly checked by the king. *Eliiah* was to be rebuked, *for telling Ahab ſo plainely of his faults, and ſending ſuch a harſh meſſage to King Ahaziah; Eliſha much to be ſhent for uſing ſuch harſh language to King Jehoram*, 2 *Kings* 3. 13. 14. yea *Samuel* and *Hanani* deſerved the ſtrappado for telling King *Saul*, and *Aſa*, *That they had done fooliſhly*, 1 Sam. 13. 3. 2 *Chron.* 15. 9. The meaning therefore of this Text, ſo much miſtaken, (unleſſe we will cenſure all theſe Prophets, and have Kings not onely irreſiſtible but irreprehenſible for their wickedneſſe) is onely this: No man may preſume to queſtion the kings juſt actions, warranted by his lawfull royall power: (this text being parallel with Rom. 13. 1. 2. 3. 4) What then? *Ergo*, None muſt queſtion or reſiſt his, or his Cavalleers unjuſt violence and proceedings, (not the Parliament the ſupremeſt Iudicature and Soveraigne Power in the Kingdome) is a ridiculous conſequence: yet this is all this Text doth contribute to their preſent dying bad cauſe.

* See *Caſſanæus. Catal. Gloriæ Mundi, pars* 5. *conſid.* 14. *ſect.* 62. p. 222.

[x] *De Pontif. Rom. l.* 4.

[y] 2 Sam. 11. 7. &c.

[z] 2 Chro. 17. 17. 18. 19. 20.

[a] 1 King 18. 17. 18.

[b] 2 King. 1, 3, 4 16.

Th

The 5. is that uſually objected Text of (c) *Pſal.* 105.14, 15. *Touch not mine anointed.* Ergo the King and his Cavaleers muſt not be to much as touched nor reſiſted, I wonder they did not as well argue, *Ergo* none muſt henceforth laſſe his Majeſties hand (ſince it cannot be done without touching him) neither muſt his Barber trim him, nor his Bedchamber-men attire him, for feare of high Treaſon in touching him: And the Cavaleers muſt not henceforth be arreſted for their debts, apprehended for their robberies and murthers; neither muſt the Chyrurgeon dreſſe their wounds, or pock-ſoars, or otherwiſe touch them, (ſo dangerous is it to touch them, not out of fear of infection, but) for fear of tranſgreſſing this ſacred Text, ſcarce meant of ſuch unhallowed God-dammees. Such concluſions had been more literall and genuine then the firſt.

Object. 5.

(c) *An Appeal to the Conſcience*, p. 4. c. *Anſwer of the Vindication of Pſ.* 105.14, 15 *and the Revindication printed at Cambridge*, 1643.

But to anſwer this long ſince exploded trivial Objection, not named by Dr *Ferne*, though revived by others ſince him. I ſay firſt, that this Text concernes not kings at all, but the *true anoynted Saints of God their Subjects, whom kings have been alwayes apt to oppreſſe and perſecute*, witneſſe *Pſal.* 2. 2, *&c. Act* 4.26. 27. *Act.* 12.1, 2, 3 with all ſacred and Eccleſiaſticall Hiſtories, ancient or moderne. This is moſt apparent; firſt, becauſe theſe words were ſpoken by *God* to *Kings* then ſelves, as the Text is expreſſe, *Pſal* 105 14, 15. 1 *Chron.* 16.20, 21. *He ſuffered no man to do them wrong, but reproved even KINGS for their ſakes* ſaying, (even to king themſelves, namely to king *Pharaoh*, an king *Abimelech*, *Gen.* 12. 10. to 20. *Chap.* 20. and 26 1. to 17. 29) *Touch not mine Anointed, and do my Prophets no harm*: Therefore not meant of kings. Secondly, becauſe theſe words were ſpoken directly and immediately of *Abraham, Iſaac, Iacob*, their wives and families, as it is evident by Verſe 6. the whole ſeries of the *Pſalme*, which is Hiſtoricall; the forecited Texts of *Geneſis* to which the words relate, the punctuall confeſſion of *Auguſtine*, and all other *Expoſitors* on this *Pſalm*; Now neither they, nor their wives, nor their children clearly, were actuall, much leſſe *anointed Kings*; For firſt, they lived long before the goverment of kings was erected among the Iſraelites, of whom (d) *Saul was the firſt.* 2. They had no kingdom nor territories of their own when theſe words were uttered, but *were ſtrangers in the Land, going from one Nation and Kingdom to another, ſojourning obſcurely like Pilgrims and Strangers upon earth, in Egypt, and Gerar, under King* Pharaoh, Abimelech, *and other Princes*, not as kings, but *ſubjects and private men*, as *Verſe* 12. 13. *Gen.* 12. and 20. and 26 *Chap.* 36.7. *Chap.* 37.1. *Deut.* 23.7. *Hebr.* 11.13. reſolve. Thirdly, *They were but very few men in number, Verſe* 12. *Geneſis* 34. 30. they were Maſters onely of their own ſmall families, and that under foreign Kings; therfore doubtleſſe no kings at all. Fourthly, this was ſpoken of theſe Patriarchs *Wives and Families*, as well as of them ſelves, (and they certainly were no kings, unleſſe you will have kingdoms conſiſting onely of kings, and no ſubjects at all) *Verſe* 12.14. *Gen.* 12.15. to 20. *Chap.* 20.2. to 17. *Chap.* 26.11. *Chap.* 34.30. *Chap.* 35. 6. Fifthly, the Scripture no where calls them kings, much leſſe the Text, which terms them *expreſſly Prophets, Touch not mine Anointed, and do* MY PROPHETS (not properly ſo taken, but largely, that is, *My ſervants, my choſen people*, as *Verſe* 6. expounds it) *no harm*: The later Clauſe, *Do my Prophets no harm*, being an exact interpretation of the former, *Touch not mine Anointed*, that is, My Prophets and Servants, ſo far forth as to do (e) *them harm*; For in a common ſence, no doubt, *they* (f) *might be touched* without offence to God or them, by way of imbracement, aſſiſtance, and the like.

Anſw.

(d) 1 *Sam.* 8. & 9. & 10. *ſee* 1 *Chron.* 1.43.

(e) *See Zeph.* 2. 8. *Gen.* 20.6. *Iob* 1.11.c. 2.5. c. 19.c. 5. 19. c. 12.14. *Gen.* 26. 11. 29. *Ier.* 12. 14.1 *Iob.* 5.18.

(f) *Matth.* 8.3. 15.c. 17.7. *Mar.* 6.56. *Luk.* 8.45, 46, 47

Sixtly, Though there were kings in *Abrahams* dayes or before, as is evident by *Gen.* 14.1,2, &c. yet there were no anointed kings, nor were kings ever called *Gods anointed* till *Sauls* dayes, who was the first *anoint ed King* I read of, 1 *Sam.*10.1. and the first king ever stiled, *The Lords Anointed*, 1 *Sam.*12.3,5. whereas Priests were anointed long before, *Exodus* 30.30. *Chap.* 40.13,15. Therefore *Anointed* in the Text cannot be meant of kings, or of persons actually anointed, *but onely of those Saints of God, who were metaphorically and spiritually anointed, having the gifts and graces of Gods Spirit*, *Psal.*28.8,9. *Hab.*3.13. 2.*Cor.*1.21.1 *Iohn* 2. 27.*Eze.*16.9.*Isay* 20.27. This Text then being not meant of kings which are actually, but of Christians onely spiritualy *anointed*, in regard of which anointing (as I have (*g*) elsewhere largely manifested) they are in Scripture, not onely stiled *Christians* (which in plain English is *annoynted*) *Acts* 11.26. c.26.26. 1 *Pet.*4.16. but *Christ* (in the abstract) 1 *Cor.*12. 12. *Ephes.*4.12,13. the *Members, Body, Flesh and Bones of Christ.* 1 *Cor.*12.12,7. *Ephes.* 1.22.23.c.5.29,30,31. *Col.*1.24. Yea, *Kings and Priests unto God the Father: Exod.*19.6. 1 *Pet.*2.5. *Revel.*1.6.c.5.10.c.20.6. for *whom God hath prepared a heavenly Kingdom*, (*wherein they shall reign with Christ for ever*) with *an everlasting Crown of glory* too, *Matth.*5.3.c.25.34. *Luke* 6.20.c.12.32.c.22.29. 30. *Col.* 1.13. 2 *Thess.*2.12. 1 *Corinth.* 9.25. 2 *Tim.*2.12.c.4.8. *Heb.*12.28. 2 *Pet.*5.4. 2 *Pet.*1.11. *Iam.*2.5. *Revel.*22.5. The proper argument then that can be thence deduced by our Oppositos, is but this *Non sequitur*.

(*g*) *The Vindication and Revindication of Psal.*105,14,15

Kings themselves must not touch Gods spiritually *annointed* Saints and servants to do them harm; *Ergo*, if Kings do violently and unjustly make warre upon them, not onely to harm, but plunder, murther, destroy them utterly, extirpate that Religion they professe and are bound to maintain, they are obliged in point of conscience, under pain of damnation, not to resist; Whereas the conclusion should be directly contrary. Therefore they may lawfully with good conscience resist them to the uttermost, in such cases: For since God hath thus directly enjoyned Kings, *Not to touch, or do them harm*; if Kings will wilfully violate this injunction, they may with safe conscience, by force of Arms withstand, repulse, their unjust violence, and hinder Kings or their instruments from doing them that injury which God himself prohibits; else they should be accessories to their kings iniustice, and authors of their own wrongs, according to these received Maximes; (*h*) *Qui non pohibet malum quod potest, jubet*; *Qui potest obviare & perturbare perversos & non facit, nihil est aliud quam favere eorum impietati: Nec caret scrupulo societatis occultæ, qui manifesto facinori desinit obviare. Qui desinit obviare cum potest, consentit:* used by *Ambrose*, *Hierome*, *Augustine*, *Isidor*, *Anastatius*, and *Gratian*, who recites, applies them to *defensive wars*. And if our Oppositos (who pervert this Text by translating it from *Subjects* and *Saints*, to *Kings*) may in their erronious sence safely argue thence, That if subiects take up Arms against their Princes, contrary to this Text, their Princes may by vertue of this precept, iustly resist them with force, and repulse their injuries; then by the true genuine sence thereof (being meant of Subiects, Saints, not Kings) if Kings will violently assault and make war upon Saints, their Subiects, to harm them, they may with as good reason and conscience defend themselves against their Kings and ill Instruments, as their Kings protect themselves in this sort against them, and that by authoritie of this Text, by our Oppositos own argumentation.

(*h*) *Gratian. causa.*23. *qu.*3. 4,5,6. *Where many Fathers are cited to this purpose.*

Thirdly, admit this Scripture meant of Kings, yet what strength is there in it to priviledge

viledge them from iust necessary resistance? If any, it must rest in the word *annointed*; but this will afford kings no such corporall priviledges as many fancie, neither from lawfull resistance, nor deposition, nor sentence of death it self, which I shall undeniably evidence to refute a commonly received errour: For, first, it is apparent, that the anointed here meant, are such onely who are spiritually annointed, either with the externall profession and ceremonies of Gods true religion, or with the internall graces of the Spirit; for neither *Abraham*, *Isaac*, *Iacob*, nor their families (nor any kings or Priests in their dayes) for ought we finde, were corporally annointed. Besides, the annointing here intended, is that which is *common* to (*i*) *Priests* and *Prophets* (as *Touch not mine annointed, and do my Prophets no harm*, infallibly proves) rather then that which is peculiar to kings. Whence I thus argue, That annoin ing which is common to subiects as well as kings, and cannot secure any subiects, who in the genuine sence of the Text, are *Gods annointed* from iust resistance, corporall violence, legall censures, or death, cannot in or of it self alone secure kings from any of these, no further then it secures subiects: for the annoiting being the same in both, must have the self-same operation and immunities in both. But this anointing in subiects can neither exempt their persons from necessary iust resistance, if they unlawfully assault or war upon their Superiours, equalls, interiours; nor free them from arrests, imprisonments, arraignments, deprivations, or capitall censures, if they offend and demerit them, as we all know *by* (*k*) *Scripture* and *experience*: Therefore it can transfer no such corporall immunities or exemptions from all or any of these, to kings; but onely, exempt them from unlawfull violence and injuries, in point of right, so far forth, as it doth other Subjects. In a word, this annointing being common to all Christians, can give no speciall Prerogative to Kings, but onely such as are common to all Subiects, as they are Christians. Secondly, admit it be mean of an actuall externall anoynting, yet that of it self affords Kings no greater priviledge then the inward unction, of which it is a type, neither can it priviledge them from just resistance, or just corporall censures of all sorts. First, it cannot priviledge them from the iust assaults, invasions, resistance, corporall punishments of other forraign kings, Princes, States, Subiects not subordinate to them, who upon any iust cause or quarrell may lawfully resist, assault, wound, apprehend, imprison, slay, depose, iudge, censure forraigne kings, even to death; as is apparent by (*l*) *Sihon King of the Amorites*, *and Og the king of Bashan slain*, the *King of* (*m*) *Ai* hanged by *Ioshua*, the (*n*) five kings of *Canaan* that besieged *Gibeon*, on whose necks *Ioshua* made his men of war to put their feet, then smote, slew, and hanged them upon five trees. Who also assaulted, resisted, imprisoned, condemned slew, executed divers other (*o*) kings of *Canaan*, to the number of thirty one in all; by king (*p*) *Adonibezek*, (*q*) *Eglon*, (*r*) *Agag*, with other Heathen Kings, imprisoned, stabbed, hewen in pieces by the Israelites. If any obiect, These kings were not actually annoynted, which they cannot prove, since (*s*) *Cyrus* an Heathen King, is stiled *Gods annoynted*; no doubt *Saul was an annoynted* King, if not *the first in the world*, 1 *Sam.*10.1. yet he was *justly resisted*, *wounded*, *pursued by the Philistines*, 1 *Sam.*31.3. * *Iosiah* an annoynted good King, was slain by *Pharaoh Necho King of Egypt*, whom he rashly encountred; (*t*) *King Ahab* was slain by an Archer of the *King of Assyria*, (*u*) *King Ioram* and *Ahaziah* were both slain by *Iehu*, by *Gods command*; (*x*) *Iehoaaz* was deposed by the *King of Egypt*, (*y*) *Iehoiakim* and *Iehoiakin* both deposed, *fettered and kept prisoners* by the *King of Babylon*;

(*i*) *Exod.*30.32 *c.*40.13,15. *Levit.*4.3,16. 1 *King.*19.16.

(*k*) *Eccles.*9.2. *c.*8.14. *Ezech.* 18.24,26. *Ioh.*16.2.

(*l*) *Psal.*136.19, 20. *Num.*21.24, 33,34,35.

(*m*) *Ios.*8.29.

(*n*) *Iosh.*10.22, 23,24,25,26.

(*o*) *Iosh.*10.42. *c.*11. & 12.7. *to* 24.

(*p*) *Iudg.*1.26, *to* 76.

(*q*) *Iudg.*3.*to*26.

(*r*) 1 *Sam.*15. 32,33.

(*s*) *Isay*.45.1.

(*t*) 1 *King.*22. 34,35.

* 2 *Chro.*35.

(*u*) 2 *King* 9.28. 27.

(*x*) 2 *Chr.*31.12. 6,7.

(*y*) 2 *Ki.*23.4,5

(z) 2 Chron. 33 11, 12.
(a) 2 King. 14, 13.

bylon; who also (*y*) *apprehended, deposed, judicially condemned King Zedechiah, put out his eyes, and sent him prisoner to Babylon bound with fetters of brasse.* So (*z*) *Manasses was deposed, bound with fetters of brasse, and carryed captive by the Captaines of the King of Assyria.* (*a*) *Amaziah King of Iudah was taken prisoner by Iehoash King of Israel.* Infinite are the presidents in stories, where kings of one Nation in just warrs, have been assaulted, invaded, imprisoned, deposed, slain, by Princes and Subjects of another Nation; and that justly, as all grant without exception; neither their annointing, nor Kingship being any exemption or priviledge to them at all in respect of forraigners, in cases of hostility, to whom they are no Soveraigns, no more then to any of their Subjects. Whereas if this royall annointing did make their persons absolutly sacred and inviolable, no forraign Princes or Subjects could justly apprehend, imprison, smite, wound, slay, depose, or execute them. Secondly, Kings who are *subordinate* (*b*) *Homagers and Subjects* to other *Kings or Emperours*, though annointed, may for Treasons and Rebellions *against them, be lawfully resisted, assaulted, imprisoned, deposed, judged to death and executed, because as to them they are but Subjects*, notwithstanding their annointing, as appears by sundry presidents in our own and forraign Histories; and is generally confessed by the learned. Thirdly, the *Roman, Greek* and *German Emperours*, though annointed, the ancient Kings of *France, Spain, Arragon, Britain, Hungary, Poland, Denmarke, Bohemia, India, Sparta*, and *other places* (who were not absolute Monarchs) have in former ages been *lawfully resisted imprisoned, deposed, and some of them judicially adjudged to death and executed by their owne Senates, Parliaments, Diets, States*, for their oppression, mal-administration, tyranny, and that justly, as (*c*) *Bodin*, (*d*) *Grotius*, with others affirm, notwithstanding any pretence that they were annointed Soveraigns. Fourthly, Popes, *Bishops and Priests anciently were, and at this present in the Romish Churches are actually annointed* as well as Kings; and we know the (*e*) *Popish Clergy and Canonists* have frequently alledged this Text, *Touch not mine annointed and doe my Prophets no harme*, in Councels, Decretalls and solemn debates in Parliament, to prove their *exemption from the arrests, judgements, capitall censures and proceedings of Kings and Secular Iudges for any crimes whatsoever*, because (forsooth) they were *Gods annointed, intended in this Text, not Kings*; therefore Kings and Seculars must not touch, nor offer any the least violence to their persons, no not in a way of justice. By colour of this Text they exceedingly deluded the world in this particular for hundreds of yeeres. But in the seventh yeer of *Hen.* the 8. in (*f*) Dr. *Standish* his case debated before a Committee of both Houses of Parliament, and all the Iudges of *England*, this *Text being chiefly insisted on to prove the Clergies exemption*, Jure Divino, *was wholly exploded in England*, and since that in *Germany, France*, other Realms; and notwithstanding its protection, many (*g*) Popes, Bishops, and Clergy-men in all Kingdomes, ages, for all their annointing, have for their misdemeanors not only been *resisted, apprehended, imprisoned*, but deprived, degraded, hanged, *quartered burned*, as well as other men (Yea (*h*) *Abiathar the High Priest was deposed by Salomon for his Treason against him*, notwithstanding his Annointing;) their annointing giving them not the smallest immunity to doe ill, or not to suffer all kinds of corporall, capitall punishments for their misdemeanors. If this actuall annointing then, cannot lawfully exempt or secure Priests and Prelates persons, nor the Pope himselfe from the premises, how then can it justly priviledge the persons of Kings? Fifthly, among the Papists all *infants, either in their baptisme*

(*b*) See M. *Seldens* Titles of Honour. l. 1. c. 3. sect. 1. 2. *Bodin Commonw.* l. 1. c. 3. l. 2. c. 5. *Iosephus De Bello Iudaico*, l. 1. c. 10. 15.

(*c*) *Commun.* l. 2. c. 5.
(*d*) *De Iure Belli* l. 1. c. 3. sect. 11. 16.
(*e*) *In the Titles and Controversies de Immunitate Clericorum, Bishop Latimers Sermon at Stamford*, f. 61. b.
(*f*) *Keilweyes Reports*, f. 181.

(*g*) *Sect. Rel.* 88. & *Fox Acts & Monuments.*
(*h*) 1 *King.* 2. 26, 27.

baptisme, or confirmation are actually annointed with their consecrated (i) *Chrisme*, and with (k) *extreame unction* to boot at *least cast*, which they make (l) a *Sacrament*, and so a thing of more divine soveraign Nature then the very annointing of Kings at their inauguration, which they repute no Sacrament, as being no where commanded by God: But neither of these actuall unctions, exempt all or any of those annointed with it from resistance, or any corporall punishments, or just censures of any kind; therefore the very annointing of Kings cannot doe it. Sixthly, the Ceremony of annointing kings, as (m) *Cassanaeus* with others write, is peculiar *onely to the German Emperor, the King of Jerusalem, the King of France, the King of England, and the King of Sicily*; but to no other kings else, who are neither annointed nor crowned, as he affirmes; so that it cannot give any priviledge at all to any but onely to these 4. not other kings, who are not anointed. Now seeing only these 4. kings are *actually* anointed, yea *lawfull Kings and their persons sacred*, even before they are annointed or crowned, and other kings persons (as of *Spain, Hungary, Denmark, Sweden, Poland, &c.*) who are not annointed, are as sacred, as exempt from danger, as those who are enoyled; And seeing the annointing of kings is *at this day a meer arbitrary humane Ceremony, not injoyned by divine authority, nor common to all Kings, who are* (n) *Kings before their Coronations*, it is most certain and infallible, that this enoyling in and of it selfe derives no personall Prerogatives or Immunities at all to kings, much lesse an absolute exemption from all actuall resistance in cases of unjust invasions on their Subjects, or from the censures of their Parliaments for publike destructive exorbitances, as most have hitherto blindly believed.

(i) See Cassanaeus Consuet. Burgund. Rubr. de Ceremoniis usu. p. 16. &c. the Princes Iord. See Thomas Waldens. Bellarmin. and others, De Sacramento extremae Unctionis, and also Stapleton and Canons, de Sacramentum humano & Extreme unct.

(k) Catalog Gloriae Mundi par. 5. consid. 35. p. 49. Alexander Sup. Gen. Rom. Pontifex. 10

(l) Cassanaeus Cons. & Consid. 19.

(m) Cook 7. Report. Calvins case. 11 Polit. Arist. De Somn. Vig. dor. c. 17.

Neither will the frequent next objected speeches of *David* concerning *Saul*, impeach the premises, 1 *Sam.* 24. 6. 10. c 26. 9. 11. 23. & 2 *Sam.* 1. 12. 16. *The Lord forbid that I should do this thing unto my Master the Lords Annointed, to stretch forth my hand against him seeing he is the Lords Annointed. I will not put forth my hand against my Lord, for he he is the Lords annointed.* And David *said to* Abishai, *Destroy him not, for who can stretch forth his hand against the Lords Annointed, and be guiltlesse? The Lord forbid that I should stretch forth my hand against the Lords Annointed. The Lord delivered thee in mine hand to day, but I would not stretch forth mine hand against the Lords Annointed. How wast thou not afraid to stretch forth thy hand against the Lords Annointed? Thy blood shall be upon thy head, for thy mouth hath testified that thou hast slain the Lords Annointed.* Which severall Texts seem at first sight to insinuate, that *Sauls* very externall annointing was that which did secure his person from assaults and violence; and that it is unlawfull even by way of defence, forcibly with Armes to resist a persecuting unjustly invading king, because he is annointed

But these Texts, if duly pondered, will warrant neither of these conclusions. First then, I answer, that *Sauls* base annointing, considered as an externall Ceremony to *declare him a lawfull King*, did not, could not adde any immunity to his person against *Davids*, or any other Subjects just violent resistance, as the premised reasons manifest; but it was onely his royall Soveraign Office conferred on him by God and the people, to which his externall annointing by *Samuel* was but a Preparation: That which made *Saul*, with other his successours, a king, was not his base annointing. For (a) *Saul* himselfe *was annointed by Samuel before he was made and chosen King, not when he was made King.* So (p) *David*, (q) *Hazael*, (r) *Jehu*, with others, *were annointed before they were actuall Kings*, and many of their Successors by

Object. 8. Answ.

(a) 1 Sam. 10. 1, 2. 24.

(p) 1 Sam. 16. 1, 10. 13

(q) 1 king. 19. 15, 16.

(r) 1 king. 19. 16. 2 king. 9. 1. 10. 3.

descent, were reall kings before they were annointed; some of them being not annointed at all for ought we read: therefore their unction made them not kings, since neither simply necessary, nor essentiall to their being kings. Nor did *Sauls* annointing only, preceding his Regality, make his person sacred, or any other kings persons; for then it would follow, That if *Saul* had not been actually annointed, or had continued king for some yeeres without this annointing, then *David* in such a case might lawfully have slain him, without check of conscience, and that the persons of kings not at all annointed; and of hereditary kings before their Coronations, till they are annointed, should not be sacred, nor exempt from violence; which is both false and perillous to affirm; but it was his Soveraign Royall Authority over *David* (then his *Son-in-law, Servant, Subject*) which restrained him from offering violence to his person. *Saul* then being thus priviledged, not because he was annointed, but because he was an annointed king, and that not *quatenus Annointed*, but *quatenus King*; the true sense and genuine interpretation of these Texts must be, That *Sauls* person was sacred, exempt from his Subjects violence, not because he was annointed, as if that only did priviledge him; but because he was a lawfull king (*f*) *appointed by the Lord himselfe*, the (*t*) *Lords annointed*, being but a periphrasis, or forme of speech, wherein the Ceremony of annointing, is used for the *Regality*, or *kingly power* it selfe, *declared* not *conferred* by annointing, and in plain words without any figure, it is put for, the *Lords King*, that is, a *King appointed by the Lord*; in which sence God calls Christ (*v*) *my King*; and *David* stiles himselfe (*x*) *Gods King*. *Sauls* Royall Authority without his annointing, not his annointing, (predestinating him to his Authority being the ground of this his immunity from *Davids* violence. Secondly, (*y*) *Saul was annointed some space before he was made King, and* (*z*) *David many yeere before hee came to the Crowne*: I would then demand of any man; if *Saul* or *David* after their unction, and before their election and inauguration to the Crown had invaded or assaulted any of the people in an hostile manner, whether they might not have justly resisted, repulsed, yea slain them so in their own necessary defence? If not, then one Subject may not repulse the unjust violence of another in an elective kingdome, if by possibility he may afterwards be chosen king, though for the present he be neither actually king nor Magistrate, but a *Shepheard*, as *David was*, *Psal.* 78.70,71. which I presume none will affirm, I am certain none can prove: If so, then it was not *Sauls* annointing but onely his Royall Authority, which made *David* thus to spare his life, his person. So that our Opposites pressing this Argument only from his Annointing, is both false and idle, as all the premises demonstrate.

(*f*) 1 Sa. 15, 16, 17. *c.* 10. 1, 2, 3, 4.
(*t*) 1 Sam. 12, 13. *c.* 15. 13. *c.* 16. 1. 1 Chro. 28. 4.
(*v*) Psal. 2, 6. Psal. 18, 50.
(*y*) 1 Sam. 10. 1, 2, 24.
(*z*) 1 Sam. 16. 1, 10, 14.

But to set the Argument right; I answer thirdly, That all which these Texts and *Davids* example prove, is but this. That Subjects ought not wilfully or purposely to murder or offer violence to the persons of their kings; especially in cold blood when they doe not actually assault them. Ergo they may not resist, repulse their person all actuall assaults, nor oppose their cut-throat Cavaleers when they make an unjust warre against them. Which Argument is a meer *Non sequitur*.

For 1. *Davids example* extends only to *Sauls* own person, not to his Souldiers, who were neither kings, nor Gods Annointed; and whom *David* no doubt would have resisted and slain too had they assaulted him, though he spared *Saul*: as (*a*) Dr. *Ferne* himselfe insinuates in these words; *Davids Guard that he had about him, was onely to secure his person against the cut-throats of Saul, if sent to take away his life, &c. He was annointe*

(*a*) Sect. 2. p. 8.

anoynted and designed by the Lord to succeed Saul, *and therefore he might use an extraordinary way of safe-guarding his person*: Therefore he and his Guard would and might doubtlesse have with a safe conscience resisted, repulsed *Sauls* cut-throat Souldiers, had they assauked *David*, to take away his life. And if so, then the Kings Cut-throat Cavalleers by his own confession, may lawfully be resisted, repulsed, slain in a defensive way, by the Parliaments forces now. Sect. 1.

Secondly, the argument is absurd, because we may forcibly resist and repulse with safe conscience, those whom we may not wilfully slay. If a man assaults me, to beat or wound me, I may resist, repulse him with violence, but I may not kill him in mine own defence, without murder or manslaughter, unlesse I could not otherwise preserve my own life by flight or resistance. (*b*) *Doctor Ferne* grants, that *a Subject may in his own private defence, lawfully ward off the Kings own blows, and hold his hands, in case of sudden and illegall assaults*, much more then of malicious and premeditated: but yet denies, *he may either wound or kill him*, and that truely. To argue therefore from *Davids* example and words, The King may not with safe conscience be wittingly slain by his subjects: *Ergo*, He and his Cavaleers may not be forcibly resisted, repulsed by them for their own defence and preservation, is a grosse inconsequent by the *Doctors* own confession. (*b*) Sect. 2. p. 3.

Thirdly, there is not ing in all these speeches, or the practise, or in *David*, pertinent to the case in dispute; for when (*c*) *Davids men moved him to kill Saul, and would have risen up against him, to slay him*, & *David* refused to act, or suffer his men to do it; neither *Saul* nor any of his men did actually assault *David* or his followers, nor so much as once discover them; but *Saul* went *casually to cover his feet into the Cave, where they lay hid*; which done, *he rose up and went on his way, not once espying* David (though *he cut off the skirt of his Robe privily*) nor any of his men with him. To argue therefore, That *David* and his men might not with a safe conscience stretch forth their hands and rise up against their Soverain kyng *Saul*, to kill him thus in cold blood, when he assaulted them not, nor so much as thought of their being in the Cave, and went out of it quietly, not discovering them; *Ergo*, they might not, they would not in conscience have resisted, repulsed him, or his Forces, had they assaulted, or given them battell in the Cave, is a *Non-sence* Conclusion; just in effect the same with this. I may not resist or repulse one who assaults me not, *Ergo*, I may not resist one that actually assaults me to take away my life, or to beat, rob, wound me: What Logick, Reason, Law or Divinitie is there in such an argument? So after this when (*d*) *Abishai* said to *David*, *God hath delivered* Saul *thine enemie into thy hand this day, now therefore let me smite him, I pray thee, with the spear, even to the earth at once, I will not smite him the second time*: *And* David *said to* Abishai, *Destroy him not, for who can stretch forth his hand against the Lords Anoynted* (to wit, to slay him purposely, as *Abishai* intended) *and be guiltlesse?* The Text is expresse, *That* Saul *and his men were then in their own Trenches, fast asleep, because a deep sleep from the Lord was fallen upon them*; *David* and *Abishai* were here the onely assailants, they came into *Sauls* Trenches, he and his whole army were in so sound a sleep, that they came *to Sauls own person, took away with them his Spear, and the Cruse of water from his Bolster, and departed, not being once discerned*; No man resists, assaults, discovers them. To slay *Saul* thus in cold blood, without any assault or present provocation, and especially upon a private quarrell, had been Treachery and impiety in a Son-in-Law, a Servant, a Subject, a Successour; (*c*) 1 Sam. 24. 3. to 16. (*d*) 1 Sam. 26. 7. to 25.

ceſſour; and to do it with the hazard of their own lives, had any of *Sauls* Army been awakened at the ſtroke *Abiſhai* would have given him, (as probably they might have been) they being but two, and within their enemies Trenches, in the midſt of the Army, who might have eaſily and ſpeedily ſlain them, had been raſhneſſe, indiſcretion; their departure with the Spear and Cruſe was more Heroicall, Loyall, prudentiall. To conclude therefore, as our Oppoſites do from this ſpeech and example, That *David* thought it unlawfull in point of Conſcience for him or *Abiſhai* to murther his Soveraign Lord King *Saul*, when he and his men were thus faſt aſleep in the midſt of their Trenches, offering them no wrong, making no actuall aſſaults upon them; *Ergo*, they could not, would not iuſtly with ſafe conſciences have forcibly defended themſelves againſt *Saul* and his Army, had they been aſſaulted by them in their own Trenches; is a traſcendent abſurdity, refuted by the very next words of *David* to *Abiſhai* at that inſtant, 1 *Sam.* 26.10. *And* David *ſaid furthermore, As the Lord liveth, the Lord ſhall ſmite him, or his day ſhall come to die; or he ſhall DESCEND INTO BATTELL, AND PERISH*; which intimates, that if *Saul* would force him to a battell, then he might lawfully defend himſelf againſt his violence, though he might not murther him now in his ſleep, when he did him no harm; and if he caſually periſhed in the battell, it was *Sauls* own wilfull default, not his, who could not diſſwade him by all this his fair carriage and ſparing of his life, (when he had thoſe two advantages to ſlay him) from his violent proſecution, nor yet ſucceed him in the Crown (as God had appointed and foretold) ſhou'd he ſuffer him to murther him and his men in battell without reſiſtance. Yea, *Davids* earneſtneſſe to go with *Achiſh* and the Philiſtines to the battell againſt *Saul*, wherein he periſhed, 1 *Sam.* 29 (unleſſe we will taxe *David* for a notable Hypocrite and diſſembler) unanſwerably evidenceth, that he deemed it lawfull to reſiſt, to encounter *Saul* and his Forces in battell, notwithſtanding his perſon might chance to periſh in the fight, though not to ſlay him treacherouſly, and baſely upon the precedent advantages: And his ſlaying of that lying (*e*) *Amalekite* who brought him tydings of *Sauls* death, reporting *that himſelf had ſlain him, to gain a reward from* David, he being then one of *Sauls* ſouldiers, (as it ſeems) concludes onely, that it was not lawfull for any of *Sauls* own men to ſlay him, by his own command: Not that reſiſtance of him in the open battell was unlawfull in point of conſcience. Other anſwers might be given to this Objection concerning *David* and *Saul*. As 1. that this difference was but private and perſonall between *Saul* and *David*, *David* being then *Sauls* private ſubject, Servant, Son in Law, not publike between *Saul* his whole Parliament or Kingdom; now many things are unlawfull to be done in private quarrels, which are iuſt and honourable in publike differences.

(*e*) 2 Sam. 2.

Secondly, that *David* himſelf, though he thus forbore to murther *Saul*, yet he tels him, 1 *Sam.* 24.10,11,12. *This day thine eyes have ſeen how that the Lord had delivered thee to day into mine hand in the Cave, and ſome bad me kill thee, but mine eye* SPARED THEE; *and I ſaid, I will not put forth my hand againſt my Lord, for he is the Lords anoynted. Moreover, my father, ſee, yea, ſee the skirt of thy Robe in my hand, for in that I cut off the skirt of thy Robe and* KILLED THEE NOT, *know thou and ſee, that there is neither evill nor tranſgreſſion in mine hand, and I have not ſinned againſt thee, yet thou hunteſt my ſoul to take it. The Lord judge between me & thee, and the Lord avenge me of thee, but mine hand ſhall not be upon thee, and plead my cauſe and deliver me out of thine hand.* And after this upon the ſecond advantage, he uſeth like words, *The*

Lord

Lord render to every man according to his righteousnes & faithfulnes, for the Lord delivered thee into my hand to day, but I would not stretch forth my hand against the Lords annointed. And behold, as THY LIFE WAS MUCH SET BY THIS DAY IN MY EYES, so let my life be much set by in the eyes of the Lord, and let him deliver me out of all tribulation: Wherein *David* declared, that God had given up *Sauls* life into his power, that it was his owne meer goodnesse that moved him to spare *Saul* contrary to his *Souldiers*, and *Abishaies* minds, who would have *slain him*, without any scruple of conscience; that the reasons he spared him were: First, because he was *Gods Annointed*, that is, specially designed and made King of *Israel* by *Gods* own election, which no kings at this day are, & so this reason extends not so fully to them, as to *Saul*. Secondly, Because he was his Father and Lord too, and so it would have been deemed somewhat an unnaturall act in him. Thirdly, because it had savoured onely of private self-revenge and ambitious aspiring to the Crown before due time, which became not *David*, the quarrell, being then not publike, but particular betwixt him and *David* onely, who was next to succeed him after his death. Fourthly, because by this his lenity he would convince & reclaim *Saul* frō his bloody pursuit, and cleare his innocency to the world. Fifthly, to evidence his dependence upon God and his speciall promise; that *he should enjoy the Crown after* Saul *by divine appointment*; and therefore he would not seem to usurp it by taking *Sauls* life violently away. Most of which considerations faile in cases of publike defence, and the present controversie. Thirdly, that *Saul* himselfe, as well as *Davids* Souldiers, conceived, that *David* might with safe conscience have slain as well as spared him; witnesse his words, 1 Sam. 24. 17, 18, 19 *Thou art more righteous then I, for thou hast rewarded me good, whereas I have rewarded thee evill: And thou hast shewed me this day how thou hast dealt well with me; forasmuch as when the Lord had delivered me into thine hand THOU KILLEDST ME NOT. For if a man finde his enemy WIL HE LET HIM GO WEL AWAY? Wherefore the Lord reward thee good for that thou hast done unto me this day, &c.* And in 1. Sam. 26. 21. Then *said Saul, I have sinned; returne my sonne David, for I will no more do thee harm, because my soule was precious in thine eyes this day; behold I have played the fool exceedingly, &c.* But the former answers are so satisfactory, that I shall not pray in ayd from these, much lesse from that evasion of Dr. *Fern*, who *makes this, and all other Davids demeanors in standing out against* Saul (*f*) *EXTRAORDINARY; for he was annointed and designed by the* Lord *to succeed Saul; and therefore he might also use all extraordinary wayes of safeguarding his person*; which likewise insinuates, that this his scruple of conscience in sparing *Sauls* life was but extraordinary, (the rather, because all his Souldiers and *Abishai would have slain Saul without any such scruple, and Saul himselfe conceived, that any man else but David would have done it*:) and so by consequence affirms, that this his sparing of *Saul* is no wayes obligatory to other subjects, but that they may lawfully in *Davids* case kill their Soveraigns: But *Davids* resistance of *Saul* by a guard of men, being only that ordinary way which all subjects in all ages have used in such cases, and that which nature teacheth not onely men, but all living creatures generally to use for their own defence, and this evasion derogating exceedingly from the personall safety of Princes, yea, and exposing them to such perils as they have cause to con the Dr. small thanks for such a bad invention, I shall reject it as the *extraordinary* fansie of the Dr. & other loyalists, void both of truth and loyalty.

1 Sam. 26. 23, 24.

(*f*) Sect. 2. p. 81.

Obiect.7. (g) *Dr Ferne, Reſolving of Conſcience, Sect. 2. p. 10. And others.*

The 7. Obiection out of the Old Teſtament is this, 1 Sam. 8. 11. *Samuel tells the people, how they ſhould be oppreſſed under kings; yet all that violence and injuſtice that ſhould be done unto them, is no juſt cauſe of reſiſtance: for they have NO REMEDY LEFT THEM BVT CRYING TO THE LORD, v. 18. And ye ſhall cry out in that day becauſe of the King which ye ſhall have choſen you, and the Lord will not hear you in that day.*

Aſwer.

To this I anſwer 1. that by the Doctors own confeſſion, this text of *Samuel*, much urged by ſome of his fellows, to prove an abſolute divine Prerogative in Kings, is quite contrary to their ſuggeſtion; and meant onely of the *oppreſſion, violence, and injuſt* (not lawfull power) *of Kings, which ſhould cauſe them thus to cry out to God* This truth we have clearly gained by this obiection, for which ſome Royaliſts will renounce their champion. 2. It is but a meer fallacie and abſurdity not warranted by the Text; which ſaith not, that they *ſhall onely cry out*; or that *they ſhall uſe no remedy or reſiſtance, but crying out*; which had been materiall, but barely, *ye ſhall cry out in that day, &c. Ergo*, they muſt and ſhould onely crie out, and not reſiſt at all; is a groſſe *Non-ſequitur*: which Argument becauſe much cryed up, I ſhall demonſtrate the palpable abſurdity of it by many parallell inſtances. Firſt, *Every Chriſtian is bound to pray for Kings and Magiſtrates*, 1 *Tim.* 2. 1, 2. *Ergo*, they muſt onely pray and not fight for them, nor yeeld tribute or obedience to them: *Kings and their Subjects too are bound to crie out, and pray to God againſt forraign enemies that come to war againſt them*, as (k) Moſes *did againſt* Pharaoh *and his Hoſt*, (i) David *againſt his enemies*, (k) Hezekiah *againſt* Sennacherib *and his Hoſte*, (l) Aſa *againſt his enemies*, (m) Abijah *and the men of Iudah againſt* Ieroboam *and the Iſraelites their enemies*; and as all Chriſtians uſually do againſt their enemies. (Yea, I make no doubt but the *Doctor*, and other Court-Chaplains, inform his Majeſty and the Cavalleers, that they muſt cry to God againſt the Parliamenteers and Roundheads now in Arms to reſiſt them;) *Ergo*, they muſt onely pray, but in no wiſe reſiſt or fight againſt them; All *men muſt pray to God for their* (n) *daily bread*: *Ergo*, they muſt onely pray and not labour for it; *Sick* (o) *perſons muſt pray to God to reſtore their health*: *Ergo*, they muſt take no Phyſick, but onely pray; All men are expreſly commanded to (p) *crie and call upon God in the day of trouble*, *Ergo*, they muſt uſe no meanes but prayer to free themſelves from trouble; pretty Logick, Reaſon, Divinity, fitter for deriſion then any ſerious Anſwer. This is all this Text concludes, and that groſly miſtaken Speech of Saint *Ambroſe*, *Chriſtians weapons are Prayers, and Tears*; of which anon in its due place. In one word, prayer no more excludes reſiſtance, then reſiſtance, prayer; both of them may, and ſometimes (when defence is neceſſary, as now) ought to concurre; ſo that our Court *Doctors* may as well argue, (as ſome Prelates not long ſince did in word and deed) *Miniſters ought to pray, and Gods* * *Houſe is an Oratory for prayer*: Ergo, *they muſt not Preach* (at leaſt, very ſeldom) *nor make his Houſe an Auditory for Preaching*: Or as rationally reaſon from this Text, That Subjects muſt cry out to God againſt their kings oppreſſions, *Ergo*, they muſt not petition their Kings, much leſſe complain to their Parliament for relief; as conclude from thence; *Ergo*, they may in no caſe reſiſt the king, or his invading Forces, though they indeavour to ſubvert Religion, Laws, Liberties, as the *Doctor* himſelf ſtates the controverſie: whoſe arguments will hardly ſatisfie conſcience, being ſo voyd of reaſon, ſence, yea ſcience.

(k) *Exod.* 14.
(i) *Pſa.* 59. 1, 10 *and other Pſal.*
(k) 2 *Chron.* 32. 20. 2 *King.* 19.
(l) 2 *Chron.* 14. 9 *to* 15.
(m) 2 *Chron.* 13 14, 15, 16.
(n) *Mat.* 6. 11.
(o) *Iam.* 5. 14, 15, 16.
(p) *Pſal.* 50. 15

* *Matth.* 21. 13.

Obiect.8. (q) *Dr Ferne, Sect. 2, 3. An Appeal to thy Conſcience.*

The eighth is this, (q) *None of the Prophets in the old Teſtament, reprehending the Kings*

Kings of Israel and Iudah for their grosse Idolatry, cruelty, oppression, did call upon the Elders of the people for the duty of resistance; neither do we finde the people resisting, or taking up Arms against any of their kings, no not against Ahab *or* Manasseh, *upon any of these grounds:* Ergo, *resistance is unlawfull.*

To which I must reply, first, That none of the Prophets did ever forbid resistance in such cases, under pain of Damnation, as our new Doctors do now; *Ergo*, it was lawfull, because not prohibited. Secondly, that as none of the people were then inhibited to resist, so not dehorted from it: therefore they might freely have done it, had they had hearts and zeal to do it. Thirdly, * *Iosephus* resolves expresly, *That by the very Law of God,* Deuter. 17. *If the King did contrary to that Law, multiply silver, gold, and horses to himself, more then was fitting, the Israelites might lawfully resist him, and were bound to do it, to preserve themselves from Tyrannie*; Therefore no doubt they might have lawfully resisted their Kings Idolatry, cruelty oppressions. Fourthly, (q) *Hulderichus Zuinglius*, a famous Protestant Divine, with others, positively affirms, *That the Israelites might not onely lawfully resist, but likewise depose their Kings for their wickednesses and Idolatries*; yea, *That all the people were justly punished by God, because they removed not their flagitious, idolatrous Kings and Princes out of their places, which he proves by* Ierem 15. *where after the four Plagues there recited, the Prophet subjoynes the cause of them, saying, Verse* 4. *I will give them in fury to all the Kingdoms of the Earth,* (that is, I will stirre up in fury all the kings of the earth against them) *because of* Manasseh *the son of* Hezekiah *king of Iudah, for that which he did in Ierusalem. This* Manasseh *had committed many wickednesses by Idolatrie and the shedding of innocent blood, as we may see in the one and twentieth Chapter of the second of the Kings; for which evills the Lord grievously punished the people of Israel:* Manasseh *shed overmuch innocent blood, untill he had filled Ierusalem even to the mouth, with his sins wherewith he made Iudah to sinne, that it might do evill before the Lord: Therefore because* Manasseh *King of Iudah did these most vile abominations, above all that the Amorites had done before him, and made the Land of Iudah to sin in his uncleanesse, therefore thus saith the Lord God of Israel, Behold, I will bring evill upon Ierusalem and Iudah, that whosever shall hear, both his ears shall tingle, &c. In summe, if the Iews had not thus permitted their King to be wicked WITHOUT PVNISMENT; they had not been so grievously punished by God. We ought to pull and cast away even our eye that offends, so a hand and foot, &c. If the Israelites had thus DEPOSED* Manasseh *by consent and suffrages of all, or the greatest part of the multitude, they had not been so grievously punished of God.* So *Zuinglius*, with whom even (s) B. *Bilson* himself in some sort accords, who in defending & interpreting his opinion, confesseth, *That it is a question among the Learned, What Soveraignty the whole people of Israel had over their Kings; confessing, that the peoples rescuing* Ionathan *that he died not, when* Saul *would have put him to death,* (u) Davids *speech to the people when he purposed to reduce the* Arke, (x) *all the Congregations speech and carriage toward* Rehoboam *when they came to make him King, with the* (y) *peoples speech to* Ieremy, *Thou shalt die the death; have perswaded some, and might lead* Zuinglius *to think, that the people of Israel, notwithstanding they called for a King, yet* RESERVED TO THEMSELVES SVFFICIENT AVTHORITY TO OVERRVLE THEIR KING, IN THOSE THINGS WHICH SEEMED EXPEDIENT AND NEEDFVLL FOR THE PVBLIKE WELFARE; *else*

Answ. 1. 2. 3. 4.

* *Antiqu. Iud.* l. 4. c. 8.

(q) *Explanat. Artit.* 42. *Operum, Tom.* 1. &c.

(s) Third Part of the True Difference between christian subiection, &c p. 513. 514.

(t) 1 Sam. 14.

(u) 1 Chron. 13.

(x) 1 Kin. 12.

(y) Ier. 26.

God would not punish the people for the kings iniquity, which they must suffer, and not redresse. Which opinion, if as Orthodox, as these learned Divines and *Iosephus* averre it, not onely quite ruines our Oppofites Argument, but their whole Treatises and cause at once. But fiftly, I answer, that subiects not onely by command of Gods Prophets, but of God himself, and by his speciall approbation have taken up Arms against their Idolatrous Princes, to ruine them and their Posterities: A truth so apparent in Scripture, that I wonder our purblinde *Doctors* discern it not: For did not God himself, notwithstanding his frequent (conditionall) promises to *establish the Kingdom of* (z) 1 King. 11. 1. to 40. *Israel on* David, Solomon *and their Posterity*; *for* (z) Solomons *grosse Idolatry* (occasioned by his Wives) *tell* Solomon *in expresse terms? Wherefore for as much as this is done of thee, and thou hast not kept my Covenant and my Statutes, which I have commanded thee, I will surely REND THE KINGDOM FROM THEE, and will give it to thy servant. Notwithstanding in thy dayes I will not do it, for* David *thy fathers sake; but I will rend it out of the hand of thy son.* Did not the Prophet *Abijah* in pursuance hereof, rending *Ieroboams* garment into twelve pieces, tell him? *Thus saith the Lord, the God of Israel, behold, I will rend the Kingdom out of the hand of* Solomon, *and will give ten tribes to thee; And I will take the Kingdom out of his sons hand, and will give it unto thee, even ten Tribes; and I will take thee, and thou shalt reign according to all that thy soul desireth, and shalt be King over Israel; and I will* (a) 1 King. 12. 2 Chr. 10. *for this afflict the Seed of* David. (y) Yea, did not ALL ISRAEL upon *Solomons* death, when *Rehoboam* his son refused to grant their iust requests at their coming to *Sechem* to make him king, use this speech to the king, *What Portion have we in* David? *neither have we inheritance in the son of* Iesse, *to your Tents ô Israel: now see to thine own house* David. Whereupon they departed and fell away from the house of *David* ever after, and made *Ieroboam* King over all Israel. And doth not the Text directly affirm? *Wherefore* Rehoboam *hearkned not unto the people, for the cause was from the Lord, that he might perform the saying which the Lord spake to* Abijah *unto* Ieroboam, *the son of* Nebat. After which when *Rehoboam* raised a mighty Army to reduce the ten Tribes to obedience, the *Word of the Lord came to* Shemaiah *the man of God, saying, Speak unto* Rehoboam *and all the house of* Iudah *and* Benjamin, *Thus* SAITH THE LORD, *Ye shall not go up to fight against your brethren the children of Israel, return every man to his house; FOR THIS THING IS FROM ME; They hearkned therefore to the word of the Lord and returned to depart, according to the word of the Lord.* Lo here a Kingdom quite rent away from the very house of *David*; yea, a new King and kingdom erected by the People, by Gods and his Prophets speciall direction, and approbation, for King *Solomons* Idolatry. Who is such a stranger to the sacred Story, but hath oft-times read, how God anoynted *Iehu King, of purpose to extirpate and cut off the whole house of* K. Ahab *his Lord for his and* Iezabels *Idolatry and blood-shed, in slaying the Prophets, and unjustly executing* Naboth *for his Vineyard? in performance whereof he slew his Soveraign King* Ioram, Ahaziah *King of* Iudah, *Queen* Iezabel, *all* Ahabs *posterity, his great men, his Nobles, and all the Priests and Worshippers of* Baal, *till he left none remaining, according to the word of the Lord which he spake by his servant* Eliah, 2 *Kings* c. 9. & 10. For which good service the Lord said unto *Iehu, Because THOV HAST DONE WELL in executing that which is right in mine eyes, and hast done unto the house of* Ahab *according to all that was IN MINE HEART, thy children of the* 4. *generation, shall sit on the Throne of Israel.*

This

This fact therefore of his thus specially commanded, approved, rewarded by God himself, must needs be just and lawfull, not Treason, not Rebellion in *Iehu*, unlesse the Opposites will charge God to be the author, approver, and rewarder of sin, of Treason.

Neither will it serve their turns to Reply, that this was an extraordinary example, not to be imitated without such a speciall commission from heaven, as *Iehu* had, and no man can now a dayes expect; For since God hath *frequently injoyned all grosse incorrigible Idolaters* (especially those who are neareſt and dearest to, and most potent to seduce us) *to be put to death, without any pitty, or exception of Kings*, whose examples are most pernicious, and apt to corrupt the whole Nation, as the presidents of the Idolatrous kings of *Israel* and *Iudah* abundantly evidence) if Kings become open professed Idolaters, though private persons may not murther them, and their families, as *Iehu*; yet the representative body, or greater part of their Kingdoms, (as many Pious Divines affirm) may lawfully convent, depose, if not judge them capitally for it: and Gods putting zeal and courage into their hearts, or exciting them by his faithfull Ministers, to such a proceeding, is a sufficient Divine Commission to satisfie Conscience, if no sinister private ends, but meer zeal of Gods glory, and detestation of Idolatry be the onely Motives to such their proceedings. (c) *Thus we read, God stirred up* Baacha, *exalted out of the dust, and made him a Prince over the house of Israel, who slew king* Nadab, *and smote all the house of* Ieroboam, *till he left him not any that breathed, because of the sins of* Ieroboam *which he sinned, and which he made Israel sin, by his provocation wherewith he provoked the Lord God of Israel to anger*; who going on after in *Ieroboams* sins, *God threatens to cut off all his house, and make it like the house of* Ieroboam; which was actually executed by *Zimri*, who slew his Soveraign King *Elah*, son to *Baacha*, *With all the house of* Baacha, *and left not one that pissed against the wall, neither of his kinsfolks, nor of his friends, according to the word of the Lord which he spake against* Baacha *by* Iehu *the Prophet*. Which act of *Zimri*, though a just judgement in regard of God, on the family of *Baacha* for their Idolatry, was notwithstanding reputed *Treason* in *Zimri*, because he did it not out of Conscience or zeal against Idolatry, being, and continuing an Idolater himself; but onely out of ambition to usurp the Crown, without the *peeples consent*; whereupon all the people *made* Omri *King. and then going all to the Royall Palace, set it on fire, and burnt* Omri *in it, both for his sins, Idolatries, and Treason which he wrought*. We read expressly, (e) that *after the time that* Amaziah *did turn away from following the Lord, they* (for this) *conspired a conspiracie against him in* Ierusalem, *and he fled to* Lachish, *but they sent to* Lachish *after him, and slew him there; and they brought him upon horses, and buried him with his fathers in the City of* Iudah. *Then all the people of* Iudah *took* Uzziah, *who was* 16 *years old, and* MADE HIM KING *in the room of his father* Amaziah, *and he did that which was right in the sight of the Lord.* So (f) Zachariah, *Shallum, Pekahiah, Pekah, four evill Kings of Iudah, successively acquiring the Crown by murther, and reigning evilly in Gods sight, were all slain by Gods just judgement on them, of one another, and* Hoshea. *In few words, God himself ever annexed this condition to the Kings of Israel and Iudah, that they should serve and fear him, obey his Laws, keep his Covenant, otherwise if they did wickedly forsake him, or commit idolatry, he would destroy, forsake, and cast them and their seed off from being* (*) *Kings*. When therefore they apparently violated the condition, the whole State and people, as God's Instruments, lawfully might, and sometimes did by Gods speciall direction, remove depose

Evasion. Reply.

(b) Deut. 13. throughout. c. 17. v. 18.

(c) 1 Kin. 15. 27. to 34. & 16. 1, 2.

(d) 1 Kings 16. 1, 8 to 20.

(e) 2 Chron. 25. 27, 28. c. 26. 1, to 6. 1 King. 14. 19, 20, 21. c. 15. (f) 2 King. 15. * 1 Sam. 12. 14, 15. 25 2 Sam. 7. 11, 12, 14, 15, 16. Psa 89. 30, 31, 32. 1 Chr. 28. 7, 8 9. 1 Kin. 11. 9, 10, 11, 12, 32, 33. 2 Sam. 15. 25, 26, 27, 28 29, 1 c 16. v. compared with ver. 1. 7. 1 Chr. 10. 13. 14.

depose, and sometimes put them even to death for their grosse iniquities, and idolatries; and when they did it not, it was not (as many think) for want of lawfull Soveraign Authority remaining in the whole State and people, (as I shall fully manifest in the *Appendix*) but out of a defect of zeal, out of a *generall complying with their Kings in* (g) *their abominable idolatries and sins, which brought War, Captivity, ruine, both on their Kings, their Posteritie, the whole Nation and Kingdoms of* Iudah, *and* Israel, *as the Sacred Story plentifully relates.* All which considered, this objection proves not onely false, but fatall to the Obiectors cause, who might with more discretion have forborn, then forced such an answer to it, which I hope and desire no private persons will abuse to iustifie any disloyalty, sedition, Treason, Rebellion, for taking up of Arms against their lawfull Princes, though never so evill, without the publike consent and authority of the representative bodies or major part of their severall Realms, byassed with no sinister nor private respects, but ayming onely at Gods glory, and the publike weale, security, peace of Church and State. Thus much in answer to the principall Objections out of the Old Testament.

(g) 1 King 12. 30. c. 13. 33. 34. 6. 14. 7. to 17. c. 15. to the end of, c. 22. 2 King. c. 1. to the end of c. 25. 2 Chro. 10. 10. to the end of c. 24.

Object. 9. The ninth and most materiall (*h*) Obiection, on which our Opposites principally relie, is that noted Text in the new Testament, *Rom.* 13. 1, 2. *Let every soul be subject unto the higher Powers, for there is no Power but of God; the Powers that be, are Ordained of God. Whosoever therefore resisteth the Power, resisteth the Ordinance of God, and they that resist, shall receive to themselves damnation.* From whence Dr. *Fern* concludes, 1. *That the King is the Supreme or Highest Power here intended.* 2. *That all persons under the Highest Power are expressely forbidden to resist.* 3. *That in those dayes there was a standing and continuall great Senate, which not long before had the Supreme Power in the Roman State, and might challenge more by the fundamentalls of that State, then our Great Councell will or can. But now the Emperour being supreme, as* S. Peter *calls him, or the Higher Power, as* S. Paul *here, there is no power of resistance left to any that are under him, by the Apostle.* 4. *Was there ever more cause of resistance then in those dayes? Were not the Kings then not onely conceived to be inclined so, and so, but even actually to be enemies of Religion, had overthrown Laws and Liberties? And therefore if any should from the Apostles reasons that he gives against resistance in the 3, 4, 5, Verses,* (for Rulers are not a terror to good works, but evill, and he is the Minster of God to thee for good) *replie, That Rulers so long as they are not a terror to the good, but ministers for our good, are not to be resisted; the consideration of those times leaves no place for such exception, because the Powers then (which the Apostle forbids to resist) were nothing so, but subverters of that which was good and just. The Emperors did then indeed rule absolutely and arbitrarily, which should have according to the Principles of those dayes beene a stronger motive to resist. But how did they make themselves of Subjects such absolute Monarchs? was it not by force and change of the Government? and was not the right of the People and Senate (according to the Principles of these dayes) good against them, with as much or more reason, then the right of the people of this Land is against the Succession of this Crown, descending by three Conquests?* 5. *The prohibition doth not onely concern Christians, but all the people under those Emperors, and not onely Religion was persecuted, but Liberties also lost, the people and Senate were then enslaved by Edicts and Laws then inforced on them, by* Nero *and other Roman Emperours, yet notwithstanding the Apostle prohibits them to resist. By all which conscience will clearly see, it can have no warrant in Scripture for resistance, to wit, of the*

(h) Dr Ferne, Sect. 2. p. 10, 11, 12. and elsewhere. The necessitie of Christian Subiection, Oxford, 1643. Appeal to thy Conscience, 1643. The Lords Anointed, Oxford, 1643. with others.

the King, or his invading Forces, by way of necessary defence. So the Doctors and other Objectors hence conclude.

To give a satisfactory Answer to this grand Objection, I shall in the first place inquire, *Whether there be any thing in this Text, prohibiting subjects to resist with Force the armed unjust violence of their Princes persons or instruments, especially when they are bent to overthrow Religion, Laws, Liberties, the Republike, and turn professed Tyrants?* And under correction, I conceive there is not the least syllable or shadow in this Text for any such inhibition, as is pretended. Not to insist upon the words, *higher Powers ordained of God, &c.* which extend not unto Tyrannie and illegall exorbitant oppressions, of which hereafter; I shall deduce my first Demonstrations to prove this negative Assertion, from the occasion inducing the Apostle to insert these objected Verses into this Epistle: (i) *Dr Willet recites 7. Reasons of it*, all fortifying my assertion; I shall mention onely the three most probable, most received of them, and apply them as I go. *Answ.* (i) *Sixfold Comment. on Rom. 13. Quest. 1. p. 598.*

First, the Roman Magistrates being then infidels, the new converted Christians among them, either did, or might take themselves to be wholly exempted from any subjection or obedience to them, *reputing it a great incongruity, that Christians should owe any subjection to Pagans:* To refute which error, the Apostle informs them, that though the Magistrates themselves were Ethnicks, yet their *Authority and Power was from God himself*; therefore their profession of Christianitie did rather oblige them to, then exempt them from subjection. Thus *Haymo Soto, Calvin, Gualther, Marlorat, Willet, Pareus*, with others on this Text. Turn this Reason then into an Argument, and it will be but this *Non sequitur*: Christianity exempts not subiects from due obedience to iust Pagan Magistrates, *Ergo*, Tyrants may not be resisted, neither ought the Parliament and their Forces to resist the Kings Cavalleers *unjust* assaults, as the case is formerly stated. Pretty Logick, and Divinity.

2. The *Gaulonites*, as (k) *Iosephus* records, with other Iews, being *Abrahams* seed, held it unlawfull for them to yeeld any *subjection or tribute to the Roman Emperors, or other Heathen Princes*, reigning over them; whereupon they demanded this question of Christ himself, *Is it lawfull to pay tribute to Cæsar? Matth. 12.* which error perchance spread it self into the Christian Church, by reason of *Evangelicall Libertie*, grounded on *Ioh. 8. If the Son shall make you free, then are ye free indeed; Mat. 17. Then are the Children free*; and *Ro. 6. We are not under the Law, but under Grace.* To refell this mistake, the Apostle inserted these passages into this Epistle; Thus *Soto, Calvin, Peter Martyr, Willet*, and others. Whence nothing but this can be properly concluded, Neither the Prerogative of the Iews, nor Liberty of Christians exempts them from due subjection to lawfull heathen Magistrates, because they are Gods Ordinance, *Ergo*, No Subjects can with safe conscience defend themselves in any case against the unjust invasions of Tyrannicall Princes or their Armies. A palpable Inconsequent. (k) *Antiqu. Iud. l. 18. c. 1. 2.*

Thirdly, the Apostle having formerly taught, (*) that *Christians might not avenge themselves*: lest some might have inferred thereupon (as many * *Anabaptists* have done) that it was not lawfull for Christians to use the Magistrates defence against wrongs, nor for the Magistrate himself to take vengeance of evill doers: To prevent this the Apostle argues, That the Magistrates *are Gods Ministers, appointed by him to punish Malefactors, and take vengeance on them.* So *Gualther, Willet*, and others. To conclude from this ground: Oppressed Subjects may seek redresse of their grievances from the Magistrates, who may lawfully punish Malefactors, *Ergo*, they may not resist with (*) *Rom. 12. 19.* * *Osiander. Enchir. contr. cap. 9. de Magist. Polit.*

with force, Tyrannicall bloody Magiſtrates, or their wicked Inſtruments, when they actually make war upon them, to ruine, ſpoyl, enſlave them, is but a ridiculous *Non ſequitur*. There is nothing therefore in the occaſions of the Apoſtles words which gives the leaſt colour, to diſprove the lawfulneſſe of ſuch reſiſtance, or of the Parliaments juſt defenſive war.

Secondly, this is manifeſt by the *whole Scope* of this Text, which in ſumme is onely this, *That Chriſtians ought in conſcience to (l) be ſubject to all lawfull higher Powers ſo farre forth as they are Gods Ordinance, Gods Miniſters, for their good, to the praiſe of the good, and puniſhment of evill doers, and not to reſiſt them in the execution of their juſt Authority: Or Chriſtianity exempts not Chriſtians from obedience unto faithfull Civill Magiſtrates:* to inferre from thence. Ergo it is unlawfull for Chriſtians in point of conſcience to reſiſt their Magiſtrates when they warre upon them to ſubvert Religion, Lawes, Liberties, ſlay, plunder them, is but a meer non-ſence deduction.

Thirdly, this appeares moſt perſpicuouſly from the motives to obedience, and reaſons againſt reſiſtance of Magiſtrates ſpecified by the Apoſtle in the text it ſelfe.

Firſt, the higher Powers muſt be ſubmitted to, and not reſiſted, *becauſe they are ordained of God, and are Gods Ordinance, verſ.* 1. 2. But they are ordained of God and his Ordinance, ſo farforth only as they govern according to his Word; and preſerve, *(m) protect Religion, Lawes, Liberties, the perſons and eſtates of their people; They are not Gods Ordinance, but the Devils, when they doe quite contrary, (o) walking about like roaring Lions, ſeeking whom they may devoure,* as the *Devill* doth; According to that reſolution of *Bracton*, and *Fleta* (p) *Exercere debet Rex poteſtatem Iuris ſicut Dei Vicarius & Miniſteri in terra, quia illa Poteſtas SOLIVS DEI EST poteſtas autem injuria DIABOLI ET NON DEI; Cujus horum operam fecerit Rex ejus miniſter erit. Igitur dum facit juſtitiam, vicarius eſt Regis æterni: MINISTER AVTEM DIABOLI dum declinat ad injuriam.* Therefore they are ſo farre forth onely to be obeyed and not reſiſted, as they are Gods Ordinance, and lawfull Magiſtrates, not as they are tyrants and the Devils Agents: we might have obeyed the evill ſpirits themſelvs whiles they continued good Angels; Ergo we muſt not reſiſt them now they are turned Devils, is ill Logick, courſe Divinity, contrary to the 1 *Pet.* 5.8,9. *Iam.* 4. 7.

(m) Iſay 32. 1, 2. *c.* 49. 23. 1 Sa. 8. 20. Pſa. 78. 72, 73, 74.
(n) Pareus, Willet, Soto, and others.
(o) 1 Pet. 5. 8.
(p) *Lib.* 3. *c.* 9. *f.* 107.
(q) *Fleta, l.* 1. *c.* 17.

Secondly, *becauſe thoſe who reſiſt ſhall receive to themſelves damnation,* temporall or eternall, ſince *they reſiſt Gods Ordinance, v.* 2. But that ſubiects ſhould be temporally and eternally damned, only for reſiſting tyrannicall Magiſtrats or their Cavaleers, and that by authority from the Parliament, when they with armed violence meſt impiouſly ſet themſelves to ſubvert Religion, Lawes, Liberty, Propertie, and take away their lives, againſt all Lawes of God and Man; for which *they themſelves incurre both (r) temporall and eternall damnation,* is ſuch a Paradox, as is no wayes warranted by, but directly oppoſite to the Scripture. Therefore it muſt be intended onely of reſiſting lawfull Authority, and iuſt commands.

(r) Iſay 34. 4. *to* 2. 1 king 1. 21, & 22. Pſal. 52. 1. *to* 7. Pſa. 7. 13. Pſa. 94. 20, 21, 23. Pſal. 140. 1. *to* 13.

3. They muſt be ſubiected to, not reſiſted, *becauſe Rulers are not a terror to good work, but to evil, v.* 3. Now is this a reaſon why Subiects ſhould not reſiſt tyrannicall oppreſſing Princes, Magiſtrats, or their Inſtruments, who are only a terror to good works, not to evill? who do *(ſ) evill and only evill continually, even with both hands?* doubtleſſe not. We muſt not reſiſt Rulers who are a terror to good works but to evill; *Ergo*, we muſt not reſiſt Rulers, who are a terror to good works, not to evill, as our Oppoſites conclude hence, is to argue poſitively againſt the Apoſtle; *Ergo*, we may and muſt

(ſ) Pſal. 140. 1. 2. 6. *Prov* 1. 16. Mich. 2. 1, 3. Eſa. 33. 15. 30.

reſiſt

resist them to our *powers, lest we be* (t) *partakers of their sinnes and punishments*, and become authors of Religions and the Commonwealths subversion, is a more proper Inference.

(t) Rom. 1. 31. 3. 2 Tim. 5. 22 2 John 10, 11. Rev. 18 4.

Fourthly, the Apostle subjoynes this argument against resistance. *Wilt thou not then be afraid of the power? doe that which is good, and thou shalt have praise of the same*, Vers. 3. That power is not to bee resisted, which wee need not be afraid of, and of whom we shall have prayse whiles we doe that which is good: But this onely can bee intended of a lawfull power justly executed; not of Tyrants, or their ill Ministers bent with force of armes to ruine Religion, Lawes, Liberties,; who onely terrifie, disgrace, discountenance those that are good; applaud, advance none but those who are evill, and as *Micah* writes, Chap. 3. 2. 3. *Love the evill and hate the good, and pluck off their skin from off them, and their flesh from off their bones, &c.* Therefore this inhibition of resistance extends onely to lawfull Magistrates, not to ungodly oppressing Tyrants.

Fiftly, he is not to be resisted, but obeyed; *because he is the Minister of God to thee for good*, Vers. 4. But is this true of Tyrants? of ungodly Magistrates bent to subvert Religion, Lawes, Liberties, and destroy their people? True of (u) *Caligula*, of *Nero*, who *wished all the Romans had but one necke, that he might cut them all off at one stroke*; and purposely fired *Rome to consume it, beholding the flames as a most delightfull spectacle?* Are such the Ministers of God for our good here intended? or not rather, (x) *the very Pests, Judgements, Scourges, Wolves, Cut-throats, destroyers of mankind*, and direct Antinodes to all things that are good? If these be not within the Apostles definition, they are without his inhibition; which extends onely to such, who are the Ministers of God to us for good: and implies a lawfulnesse of resisting those who are the *Devils Ministers* to us for evill, rather then Gods for good.

(u) See *Suetonius, Eutropius, Zonaras, Grimston* and others in their lives.
(x) See *Senera de Clem. l.* 1. Hosea 13. 11.

Sixtly, He subjoynes this further reason of obedience and not resistance, *Vers.* 5. *But if thou dost that which is evill be afraid; for he beareth not the Sword in vaine; for hee is the Minister of God, a revenger, to execute wrath upon him that doth evill*; which no wayes suites with a Tyrant bent to subvert Religion, Lawes, Liberties: For he secures all evill men, especially those who are instrumentall to advance his cruelty, and oppressions; gives liberty to all manner of wickednesses, Proclaimes impunity to his ill instruments, knowing that of the Poet to be true;

(y) *Libertas sceleris est quæ Regna invisa tuetur, &c.*

(y) *Lucan. de Bell. Civil. l.* 8 *p.* 141.

He beareth the sword not onely in vaine, in reference to any good end, for the promoting of Gods glory and the publike good; but likewise draweth it forth, and useth it directly against both; And is so farre from being *a Minister of God, or revenger to execute wrath upon them that doe evill*, that he is the very Minister of the Devill, (z) a *bloody implacable revenger to execute wrath upon those onely that doe good*: Such was *Nero*, who then reigned, of whom (a) *Tertullian, Nihil nisi grande aliquid bonum a Nerone damnatum.* This reason then extends onely to righteous Governours, in their execution of justice upon wicked malefactors wherein they must not be resisted; Not to bloody, graceless, lawlesse Tyrants and their instruments, who by the rule of contraries may and ought to be resisted in their cruelties, oppressions, impieties.

(z) See *Fox* Acts and Monuments throughout.
(a) *Apolog. c.* 5. and *Scorp. de corona cap.* 24.

Seventhly, the Apostle hereupon concludes, Vers. 5. *Wherefore you must of necessity be subject not onely for wrath, but also for conscience sake.* This conclusion as the word, *Wherefore*, demonstrates, being inferred from the premised reasons, extending onely to

juſt and upright Magiſtrates, not to Tyrants, as they are ſuch; muſt relate wholly unto them; namely, that we muſt of neceſſity be ſubject unto juſt rules, and the higher powers, governing uprightly; *Becauſe they are Gods Ordinance; becauſe thoſe who reſiſt them ſhall receive damnation: Becauſe they are not a Terror to good workes, but to evill: becauſe we ſhall have praiſe of them if we doe good; becauſe they are the Miniſters of God to us for good; and becauſe they are Gods Miniſters and revengers, to execute wrath upon them onely that doe evill*: Neither of which reaſons extending to Tyrants, this concluſion can never reach to them; ſince no Law of God or man, *neceſſitates* any one to *be ſubject, not onely for wrath, but even for conſcience ſake*, to the unjuſt commands and violence of Tyrants, but the quite contrary: Should Tyrants enjoyne men, as ſome have done, to *offer ſacrifice to Idols, to renounce Chriſtianity, abjure Jeſus Chriſt, and yeeld up their chaſtity to their unruly luſts*; *Gods* (c) *Law* and conſcience in ſuch caſes *enjoynes them of neceſſity to diſobey and reſiſt thoſe commands, even for conſcience ſake*; as every man endued with conſcience muſt acknowledge; Therefore this Text extends not to reſiſtance of ſuch exorbitant powers in ſuch lawleſſe caſes.

(b) See Fox Acts and Monument, *Euſebius, Socrates, Scholaſt, Nicephorus, Grimſton* in his life of *Julian* the Apoſtate and others.

(c) Dan. 3. 5. to 25. Acts 4. 20. c. 5. 28, 29.

Eighthly, the Apoſtle thus proceeds, Verſ. 6. *For this cauſe alſo pay you tribute, for they are Gods Miniſters, attending continually upon this very thing.* What, doe men pay any Tribute to Princes or Magiſtrates for this cauſe, that they may ſubvert Religion, Lawes, Liberties? that they may plunder, murther, warre upon, and expoſe them to the rapine of their ungodly Malignant Cavaliers? Or are Magiſtrates, Gods Miniſters, attending continually upon this very thing, to ruine Parliaments, Church, State, people? would any men, thinke you, give Tyrants wages for ſuch a ſervice, to cut their throats, to devoure and undoe them in ſoule, body, eſtate? Or do not they pay tribute to, and Magiſtrates attend continually upon quite contrary imployments? If ſo, as none can contradict, then the reſiſtance here is onely intended of lawfull Magiſtrates, who continually attend upon their charge, to protect the good, and puniſh Malefactors; not of Tyrants, who doe quite contrary; and therefore are to be reſiſted.

Ninthly, he infers from the premiſes, Verſ. 7. *Render therefore to every man his due, tribute to whom tribute, cuſtome to whom cuſtome, feare to whom feare, honour to whom honour*: By what Law of God are obedience, feare and honour due to Tyrants in their ungodly, exorbitant, unjuſt commands, to ſubvert Religion, Lawes, Liberties? Certainly the Apoſtle hath no where in this Text, nor God himſelfe in any other Scripture expreſſed ſuch obedience, reſiſtance, feare or honour to be due unto them: and *Eliſha* his ſpeech to *King Jehoram*, 2 *King* 3. 13. 14. compared with *Ezek.* 21. 25. *Job* 12. 19. 21. *Co.* 34. 19. *Nehem.* 4. 7. to 20. *Ch.* 13. 17. *Iſa.* 1. 23. *Ch.* 41. 25. *Lam.* 1. 6. *Ch.* 5. 2 proves directly, that they are not their due. Therefore this Text extends not to them, but onely to lawfull Magiſtrates.

Laſtly, he concludes hence, Verſ. 8. *Owe no man any thing, but to love one another: for he that loveth another hath fulfilled the Law.* Now no ſuch Love is owing to Tyrants who ſubvert Religion, Lawes, Liberties; but we are to *hate them with a perfect hatred, as enemies both to God and man, borne for the publike prejudice*, *Pſal.* 139. 21. 22. *Pſal.* 109. 1. to 21. 28, 29. but onely juſt and upright Magiſtrates: Therefore this Text is intended onely of them.

By all theſe premiſes it is undeniable, that the reſiſtance here prohibited is onely of lawfull Magiſtrates in the due execution of their Offices, according to the Lawes

of

of God and the Realmes they live in; not of tyrannicall oppressing Princes, Rulers, or their instruments forcibly indeavouring to ruine Religion, Lawes, Liberties, Parliaments, Kingdomes; which fully refutes the Doctors fourth Observation; of which more anon.

I now proceed to some farther disquisitions for the finall clearing of this Text; and herein I shall examine,

First, what is meant by higher powers: whether Kings or the Roman Emperor onely, as our objectors pretend, or all civill Magistrates whatsoever as well as Kings?

Secondly, whether the Roman Emperour in *Pauls* time were the highest Soveraign power in that State, or the Senate?

Thirdly, whether Tyrants and unjust oppressing Magistrates, as they are such, be within the intendment of this Text, and not to be resisted in any case.

Fourthly, whether Kings and kingdomes be Gods Ordinance; or an institution *jure divino*; or a humane ordinance *jure humano*; and how farre divine or humane?

Fiftly, what resistance of the higher powers is here prohibited?

For the first of these. By the higher Powers it is cleare, that Kings and Emperours onely are not meant, as our opposites dreame; but all *kinde of civill Rulers and temporall Magistrates whatsoever*, from the King himselfe to the Constable and Tithingman: As is apparent, first, by the word, *higher Powers*, used indefinitely in the plurall number, without mentioning any speciall kind of power. Secondly, by those words: *There is NO POWER but of God: the powers THAT ARE* (that is, all lawfull powers whatsoever now in being) *are ordained of God*: which universall Negative, and Affirmative, must necessarily include all lawfull civill powers. Thirdly, by the following words: (*d*) *For Rulers, &c.* that is, all Rulers in the plurall number; a Title common to all inferiour Officers: witnesse *Exod.* 18. 21. 22. 25, 26. (See 1 *Chron.* 12. 14.) *And Moses chose able men out of all Israel, and made them HEADS over the people: RULERS of thousands, Rulers of hundreds, Rulers of fifties, and Rulers of tennes*, (such as our Tithingmen are) *and they judged the people at all seasons.* So that the Tithingman is a Ruler, a higher power within this Text. Fourthly, the word *Ministers*, *For they are Gods Ministers, &c.* in the plurall too, extending generally to all officers. Fiftly, by *v.* 6, 7, 8. *Render therefore to ALL their dues*, (that is, to all Magistrates whatsoever; as these ensuing words evidence) *tribute to whom tribute is due, custome to whom custome, feare to whom feare, honour to whom honour: Owe nothing to ANY MAN, &c.* that is, to ANY Magistrate, or Ruler of what kind soever. Sixtly, by parallel Texts, extending as well to inferiour lawfull Magistrates and Officers, as to Kings, as 1 *Tim.* 2. 1. *I exhort therefore, that first of all supplications, prayers, &c. be made for all men; for Kings, and ALL THAT BE IN AUTHORITIE, &c.* Titus 3. 1. *Put them in minde to be subject to principalities and powers, to obey Magistrates* (all in the plurall:) 1 Pet. 2. 13. 14. *Submit your selves to EVERY ORDINANCE of man for the Lords sake; whether it be to the King as supreame, or unto GOVERNORS*, (in the plurall) *as unto those that are sent by him, for the punishment of evill doers, and the prayse of them that doe well*: Compared with *Josh.* 1. 16, 17, 18. *Ezra* 7. 25, 26. *Ephes.* 6. 1. 5. *Col.* 3. 18. 20. 23. 1 *Tim.* 6. 1. *Heb.* 13. 17. *Exod.* 22. 28. *Chap.* 18. 21, 22. 25, 26. 2 *Kings* 11 4. Seventhly, by all Expositors generally on this Text, ancient, moderne, Protestants, Papists, who grant, that this Text

(*d*) See Exod. 16. 22. c. 34. 31. 2 King. 10. 1. 1 Chron. 26. 32. Ezra 9. 2. c. 10. 14. Nehem. 2. 16. c. 5. 17. c. 13. 11. Ezek. 23. 6. Joh. 7. 48. c. 12. 42. Acts 4, 5, 8, 26.

extends to all civill Magiſtrates, as well inferiour and ſubordinate, as ſuperiour, (and many ſticke not *to ſtraine it even to Eccleſiaſticall ones*) So *Origen, Ambroſe, Hierome, Remigius, Theodulus, Chryſoſtome, Theodoret, Primaſius, Haymo, Rabanus Maurus, Theophylact, Oecumenius, Haymo, Aquinas, Anſelm, Lyra, Bruno, Gorran, Hugo de Sancto Victore, Toſtatus, Luther, Calvin, Eraſmus, Melanchthon, Gualther, Muſculus, Bucer, Hemingius, Ferus, Fayus, Soto, Alexander Aleſius, Peter Martyr, Pareus, Beza, Piſcator, Zuinglius, Tollet, Willet, Wilſon, Nacclantus, Snecanus, Vignerius, Wenerichius, Winckelman, Eſtius, Faber, Cornelius a Lapide, Salmeron, Catharinus, Guilliandus, Adam Sasbout* with ſundry others. This then being irrefragable, hereby it is moſt apparent; Firſt, that no reſiſtance of the higher powers is here prohibited, but onely in the due and legall execution of their offices: For if any inferiour Officers illegally indeavour to ſubvert Religion, Lawes, Liberties, and unrightly governe the people, they may lawfully be reſiſted by them: For example, if a Maior, Juſtice of Peace, Conſtable or other officer, extravagating from the common courſe of Law and Juſtice; ſhall with force of armes in a riotous manner aſſault any private man, or the whole Citie or Village where he lives, to beate, wound, kill, plunder, diſpoſſeſſe the inhabitants of their houſes, goods, franchiſes, or aſſault them on the highway ſide, to take away their purſes; in theſe and ſuch like caſes, both in point of Law and conſcience he may not onely be forcibly reſiſted, but repulſed, apprehended, battered, if not lawfully ſlaine by the people, and proceeded againſt as a delinquent: The reaſon is, becauſe theſe illegall unjuſt actions, are not onely beſides, without their Commiſſions, but directly contrary to their offices, and the Lawes, which never gave them authority to act ſuch injuſtice: yet they are *higher Powers ordained of God*, within this Text, and no way to be reſiſted in the due execution of their Offices according to Law. If then theſe inferiour Officers may be thus forcibly reſiſted, repulſed, notwithſtanding this Text, in ſuch caſes as theſe; then by the ſelfe ſame reaſon Kings and Emperours may bee thus reſiſted too; ſince the Text extends indifferently to them both. Let then the objectors take their choyce; either affirme, that no inferiour lawfull Officers whatſoever, may be forcibly reſiſted, by the people, or repulſed, arraigned, cenſured for their miſdemeanour, by vertue of this Text; which would bring an abſolute Tyranny, Anarchy and confuſion preſently into the world, and make every Conſtable as great a Tyrant, Monarch as the grand Emperor of the *Turks*; or elſe confeſſe, that this Text condemnes not ſuch reſiſtance, even of Kings and Princes, when they forcibly war upon their Subjects to ſubvert Religion, Lawes, Liberties, and ruine the republike; ſince it makes no diſtinction at all betweene the ones power and the others; but equally enjoynes ſubjection, prohibits reſiſtance unto both; and that onely in juſt adminiſtration of their ſeverall authorities, not in the arbitrary unjuſt proſecutions of their wils and luſts.

Secondly, it followes, that the Kings Souldiers, Cavaliers and Forces now raiſed againſt Law, and armed onely with illegall Commiſſions voyd in Law, as I have proved; are none of the high powers ordained of God, nor lawfull Rulers or Magiſtrates within the meaning of this Scripture; and ſo the forcible reſiſting of them, and of the Kings illegall commands and deſignes executed by them, is no reſiſtance of the higher powers here prohibited.

Thirdly, that the Houſes of Parliament being in truth the higheſt powers ordained of God in this Realme, and their juſt legall Ordinances, Votes, Forces, for the neceſſary

necessary defence of Lawes, Liberties, Religion, against the Kings ill Counsellors, and Malignant Popish Forces, neither may, nor ought in conscience to be resisted by the King himselfe, or any of his Subjects, Souldiers, under the perill of that damnation mentioned in this Chapter.

For the second, *Whether the Roman Emperor in Pauls time was the highest Soveraign power in the Roman State, or not?* It is taken for granted by Doctor *Ferne* and other (*a*) *opposites*, that he was, as a thing past doubt, the Senate and people (as they say) having resigned up their power to the Emperour. But this no doubt is a grosse errour, (which I have largely refuted in the *Appendix*, and therefore shall be the briefer here) derived from some civill Lawyers; who out of *Justinian. Digest. lib.* 2. *Tet.* 2. and *Instit. Tit.* 2. falsly affirme, that *Lege Regia, by the regall Law the Senate and people transferred all their Empire and power unto the Emperour.* For first the Senate and people (as *Albericus Gentilis* well observes) *did not by this Law give the Emperour all power and command to dispose of them, or the lands and revenues of the Empire, as he pleased; but onely to governe them according to their Lawes, as men; not to slay and alienate them as beasts. Thus reason dictates, so the words of the Law sound.* (*c*) *Divines are deceived, Lawyers flatter, who perswade, that all things are lawfull to Princes, and that their power is highest and free. It is ridiculous to affirme, that absolute power over the subjects belongs to Popes; which belongs not to the Emperours themselves over the Italians, from whom they derive it. Imagine therefore that the Emperour had a power never so free, yet it is not of dominion, but of administration.* (*d*) *And he who hath but a free administration hath not the power of donation.* (*e*) *A gardian is then reputed in stead of a Lord, cum tutelam administrat, non cum pupillum spoliat; when he rightly administers his tutelage, not when he spoyles his pupill.* So *Gentilis.* If then the Emperours had onely a free legall administration, not an absolute dominion; granted them by the people, then this soveraigne power still resided in the Senate and people, as *Justinian Digest. lib.* 1. *Tit.* 2. *De Origine Juris*, will sufficiently manifest: Secondly, (*f*) *John Bodin* a learned Civilian clearely proves: *That the Roman Emperors were at the first, nothing else but Princes of the Commonweale,* The SOVERAIGNTY NEVERTHELESSE STILL RESTING IN THE PEOPLE, and THE SENATE: *So that this Commonwealth was then to have beene called a Principality; although that* Seneca *speaking in the person of* Nero *his Scholler, saith.* I am the onely man amongst living men, elect and chosen to be the Lieutenant of God upon earth: I am the Arbitratour of life and death; I am able of my pleasure to dispose of the state and quality of every man. *True it is, that he tooke upon him this Soveraigne authority,* by force *wrested from the people and Senate of* Rome, (*therefore not freely given him by any Law*) but IN RIGHT HE HAD IT NOT, *the State being but a very principalitie* WHEREIN THE PEOPLE HAD THE SOVERAIGNTY. *In which case,* THERE IS NO DOUBT *but that* IT IS LAWFULL *to proceede against a Tyrant by way of justice, if so men may prevaile against him: or else by way of fact, and* OPEN FORCE, *if they may not otherwise have reason; As the Senate did in the first case against* NERO: *and in the other against Maximinus. So Bodin, who directly resolves, that even in* Nero *his raigne when this Epistle was written,* the highest soveraigne power was not in the Emperour, but in the Senate and people: who notwithstanding this objected Text, had no doubt a lawfull Right, not onely to resist *Nero* when he turned Tyrant with open force, but *likewise judicially to arraigne*

Quest. 2.

(*a*) Doctor *Ferne*, Appeale to thy conscience; The necessity of subjection.

(*b*) *Albericus Gentilis, de Iu. Belli. l.* 3. *c.* 13 *p.* 309.

(*c*) *Alci. l.* 3. *de V. s. l.* 35 *& de past.*

(*d*) *L.* 7. *de Don. l.* 1. *quæres, p.* 1. *da. ab. non po. l.* 8. *qui mo. p. so l.* 17. *p.* 0. *Empt.*

(*f*) Commonweale, *l.* 2. *c.* 5. *p.* 221.

(*e*) Suetonius, Zonaras, Grimston, Eutropius, Sabellicus, Opmeerus, and others in his life.

and condemne him even to death, as they did, for his publike crimes. Now that the Soveraigne higheſt Power remained in the Senate and people notwithſtanding this *Lex Regia*, *Marius Salamonius* (an incomparable learned Roman Civilian) hath largely proved in his ſix Bookes *De principatu* (purpoſely written to refute the contrary common error) where he writes, ‘ Firſt, that the Roman Emperors were created and conſtituted onely by the Senat and people; and that the Creature ſhould be ‘ ſuperiour to the Creator, the child to the parent, is abſurd. Secondly, that the ‘ Emperours were but the Senates and peoples publike ſervants; therefore they were ‘ their Lords; and not inferiour, but ſuperiour to their ſervants. Thirdly, that they ‘ were ſubordinate and inferiour to the Lawes made by the Senate and people; and ‘ bound by all their Lawes, but ſuch as the Senate and people did by ſpeciall Acts ‘ exempt them from. Fourthly, that the people and Senate did by ſpeciall Lawes create, limit, enlarge or abridge their Emperours power and juriſdiction, as they ‘ ſaw cauſe, giving ſometimes more or leſſe juriſdiction to one Emperour then another: which they could not juſtly doe, were they not the higheſt Soveraigne power. Finally he proves it by the very *Lex Regia* it ſelfe; which becauſe rare and unknowne to moſt, I ſhall here recite, to informe and reforme our ignorant Court Doctors, Lawyers, with *Salamonius* his obſervations from it. *Lex Regia*, was not onely ‘ one ſingle Law: There was not one Law for all Emperours, but it was revived for ‘ every Emperour, yet not with the ſame conditions. The braſſe Table which ‘ yet hangeth in the *Lateran Church*, proves that the Royall Law was accuſtomed to be altered in every Princes reigne AT THE PLEASVRE OF THE ‘ ROMAN PEOPLE; for it is part of the Royall Law of the Empire of *Veſpatian*, that it ſhould be altered: which had beene voyd, if from the beginning of ‘ the Empire a perpetuall Law had beene made for all ſucceſſors; the words of the ‘ Law are theſe.

(b) *Marius Salamonius de Principatu, l. 6. p. 122. to 126.*

‘ *Fæduſve cum quibus volet facere, ita ut licuit Divo Auguſto, Tyber. Julio Cæſari Aug. Tyberioque Claudio, Julio Cæſari Aug. Germanico.*

‘ *Utique eum Senatum habere, relationem facere, remittere Senatus conſulta, per relationem, diſceſſionemque facere liceat, ut licuit Divo Auguſto, Tiberio, Julio Cæſari Auguſto, Tyberio, Claudio Cæſari Auguſto Germanico.*

‘ *Utique quum ex voluntate, auctoritateve, juſſu, mandatione ejus, præſenteve eo Senatus habebitur, omnium rerum jus perinde habeatur, ſervetur, ac ſi e lege Senatus edictus eſſet, haberetur que.*

‘ *Utique Coſſ. Magiſtratus poteſtatem, imperium, curationemve cuivis rei petenti Senatui populoque Romano commendaverit, quibuſve ſuffragationem ſuam dederit, promiſerit, eorum Comitiis quibuſque extra ordinem, ratio habeatur.*

‘ *Utique ei fines pomerii proferre, procurare, cum e Rep. cenſebit eſſe, liceat; uti licuit Tiberio, Claudio Cæſari, Auguſto Germanico.*

‘ *Utique quæcunque ex uſu Reip. majeſtate divinar: humanar: publicar: privatarumque rerum eſſe cenſebit, ea agere, facere jus, poteſtaſque ſit, ita uti Divo Aug. Tyberioque, Julio Cæſari Aug. Tyberioque Claudio Aug. Germanico fuit.*

‘ *Utique quibus legibus, Plebiſve ſcitis ſcriptum fuit, ne Divus Auguſtus Tyberiuſve, Jul. Cæſ. Aug. Tyberiuſve, Claudius Cæſ. Aug. Germanicus tenerentur; his Legibus Pleb iſque ſcitis Imp. Aug. Veſpatianus ſolutus ſit; quæque ex quaque Lege, Rogatione Divum Aug. Tyberiumve, Jul. Cæſarem Aug. Tyberiumve, Claudium Cæſ. Aug. Germanicum facere*

‘ *cere*

cere oportuerat, ea omnia Imperatori Cæsari Vespatiano Aug. facere liceat.

'Utique quæ ante hanc legem rogatam, acta, gesta, decreta, imperata, ab Imp. Cæsare Vespatiano Augusto, jussu, mandatuve ejus a quoque sunt, ea perinde justa rata sint, ac si populi plebisve jussu acta essent. Sanctio: Si quis hujusce legis ergo adversus leges, rogationes, plebisve scita, senatusve consulta fecit, fecerive, sive quod cum ex lege, rogatione, plebisve scito, senatusve consulto facere oportebit, non fecerit, hujus legis ergo, id ei ne fraudi esto, neve quid ob eam rem populo dari debeto, neve de ea re cui, actioneve judicato esto, neve quis de ea re apud eum agi sinito.

'This Law first shewes, that there was not one royall Law made for all Emperors, but that for every severall Emperour severall Lawes were necessary, containing the conditions whereupon the Principalitie was collated by the Roman people: For to *Vespatian*, it appeares power was granted, of enlarging or setling the bounds, as it was granted to *Germanicus*, but not to other Princes. And in the last Chapter but one, which saith: And by those things which by any Law, &c. it is lawfull to doe; a larger power is given to *Vespatian* then to the forenamed Emperours; and that they ought to doe some things, which *Vespatian* ought not to doe by Law. Likewise by these words; *Utique quibus legibus, &c. solutus sit*: it appeares that *Vespatian* was not freed from all Lawes, nor yet the Emperour before him.

'Likewise out of the Chapter where it saith, *Ex usu Reip. Majestate, &c.* it is evident that not an absolute free administration of things was committed to the Emperours, but onely such as was usefull, that is, which should be for the profit and honour of the republike: whence is inferred, that those things which were not for the benefit and honour of the Commonweale, Emperors had no right nor power to doe. And in the last Chapter is perspicuously set downe THAT SUPERIOUR POWER OF THE PEOPLE, GREATER THEN THE PRINCIPALITY IT SELFE. How then doth *Ulpian* say, the 'Prince is loosed from Lawes? he saith not from all Lawes: verily that he was exempt 'from many is no doubt, &c. (yet it was by a speciall clause in the *Lex Regia*.) This and much more *Salamonius*. All which considered, will infallibly evidence, the Roman Senate and People to be the highest power in *Pauls* time, not the Emperour; who even at this day (as (*i*) *Bodin proves*) is inferiour to the Germane States, who are the Soveraigne power: when King *Henry* the fourth of *France*, *Anno* 1600. used this speech to the Duke of *Savoy*; (*k*) *If the King of France would be ambitious of any thing greater then his Crowne, it might be an Empire, but not in the estate that it is now, the title of Empire being little more then that of the Duke of Venice; the soveraingty* (writes the Historian in the Margin) *remaining in the States of the Empire.*

(*i*) Commonweale *l.* 2 *c.* 5.
(*k*) Generall History of *France*, *p.* 965.

All that is objected against the premises, is that passage of *Tertullian*, much insisted on: *Colimus ergo & Imperatorem sic, quomodo & nobis licet, & ipsi expedit, ut hominem à* DEO SECUNDUM: *& quicquid est à Deo consecutum*, SOLO DEO MINOREM. *Hoc et ipse volet: Sic enim* OMNIBUS MAJOR EST, DUM SOLO VERO DEO MINOR EST. *Sic & ipsis Diis major est, dum & ipsi in potestate sunt ejus, &c.*

Object.
(*l*) *Ad Scapulam, lib. p.* 163. Objected by, The necessity of Subjection, and others.

To which I answer, that these words onely prove the Emperour in the Roman State to be the highest Officer and Magistrate under God, of any one particular person; not that he was the Soveraigne highest power above the Senate and people collectively considered: And the occasion of these words will discover the Authors intention

Answ.

tention to be no other: which was this. The Chriſtians in that age were perſecuted and put to death by *Scapula* Preſident of *Carthage*, to whom (*m*) *Tertullian* writes this Booke, *becauſe they refuſed to adore the Emperour for a God, to ſweare by his Genius, and to obſerve his ſolemnities and triumphs in an Ethnicall manner; as is evident by the words* preceding this paſſage: *Sic & circa Majeſtatem Imperatoris infamamur, &c.* and by ſundry notable paſſges in his *Apologeticus*. In anſwer to which accuſation *Tertullian* reaſons in the Chriſtians behalfe; *that though they adored not the Emperour as a God; yet they reverenced him as a man next under God; as one onely leſſe then God; as one greater then all others, whiles leſſe onely then the true God, and greater then the Idol Gods themſelves, who were in the Emperours power, &c.* Here was no other thing in queſtion; but whether the Emperour were to be adored as God? not, whether he or the Roman Senate and people were the greateſt hi-heſt Soveraigne power? And the anſwer being, that he was but a man next under God, above any other particular officer in the Roman State; is no proofe at all, that he was paramount the whole Senate and people collectively conſidered, or of greater Soveraigne power then they; which the premiſes clearely diſprove. Adde; that this Father in his *Apologie* thus cenſures the Pagan Romans for their groſſe flattery of their Emperours whom they feared more then their Gods, appliable to our preſent times; *Siquidem majore formidine & callidiore timiditate Cæſarem obſervatis, quam ipſum de Olympo Jovem, &c. adeo & in iſto irreligioſi erga deos veſtros deprehendimini, cum plus timoris, humano Domino dicatis; citius denique apud vos per omnes Deos, quam per unum genium Cæſaris pejeratur.* Then he addes, *Intereſt hominis Deo cedere: ſatis habeat appellari Imperator: grande & hoc nomen eſt, quod a Deo tradetur: negat illum imperatorem qui deum dicit; niſi homo ſit, non eſt imperator. Hominem ſe eſſe etiam triumphans in illo ſublimiſſimo curru admonetur. Suggeritur enim ei a tergo, Reſpice poſt te; hominem memento te. Etiam hoc magis gaudet tanta ſe gloria coruſcare, ut illi admonitio conditionis ſuæ ſit neceſſaria. Major eſt qui revocatur ne ſe deum exiſtimet. Auguſtus imperii formator, ne Dominum quidem dici ſe volebat: et hoc enim Dei eſt cognomen. Dicam plane Imperatorem Dominum, ſed more communi, ſed quando non cogor, ut Dominum Dei vice dicam.* Concluding thus: *Nullum bonum ſub exceptione perſonarum adminiſtramus, &c. Iidem ſumus Imperatoribus qui & vicinis noſtris. Male enim velle, male facere, male dicere, male cogitare de quoquam ex æquo vetamur, Quodcunque non licet in Imperatorem, id nec in quenquam: quod in neminem, eo forſitan magis nec in ipſum qui per deum tantus eſt, &c.* From which it is evident, that the Chriſtians did not deifie nor flatter their Emperours more then was meet, and deemed they might not reſiſt them onely in ſuch caſes where they might reſiſt no others, and ſo by conſequence lawfully reſiſt them, where it was lawfull for them to reſiſt other private men who did injuriouſly aſſault them.

(*m*) Rhenani Annot. Ibid.

If then the Roman Emperors were not the higheſt Soveraigne power in the Roman State when *Paul* writ this Epiſtle, but the Roman Senate and State, as I have cleared: and if the Parliament, not the King, be the ſupremeſt Soveraigne power in our Realme, as I have abundantly manifeſted; then this objected Text (ſo much inſiſted on by our oppoſites) could no wayes extend to the Roman Senate, State, or our Engliſh Parliament, who are the very higher powers themſelves, and proves moſt fatall and deſtructive to their cauſe of any other, even by their owne Argument, which I ſhall thus doubly diſcharge upon them.

Firſt, that power which is the higheſt and moſt ſoveraigne Authority in any State

or

r kingdome by the Apostles and our Antagonists owne doctrine, even in point of onscience, neither may, nor ought in what case soever (say our oppolites) to be forcibly resisted, either in their persons, ordinances, commands, instruments, offices, r Armed Souldiers, by any inferiour powers, persons or subjects whatsoever, especially when their proceedings are just and legall, under paine of temporall and eterall condemnation. But the Senate among the Romans, not the Emperour; and he Parliament in England, not the King, really were and are the higher Powers nd most soveraigne Authority. Therefore by the Apostles owne Doctrine even in oint of conscience, they neither may nor ought to be disobeyed or forcibly resisted n any case whatsoever, either in their Persons, Ordinances, Commands, Instruments, Officers, or Armed Souldiers, by the King himselfe, his Counsellors, Armies, Caaliers, or by any inferiour powers, persons, or Subjects whatsoever, especially vhen their proceedings are just and legall, (as hitherto they have beene) under paine f temporall and eternall condemnation. I hope the Doctor and his Camerads will ow bethrew themselves that ever they medled with this Text, and made such a halter to strangle their owne treacherous cause, and those who have taken up armes In ts defence.

Secondly, that Power which is simply highest and supreame in any State, may awfully with good conscience take up Armes to resist or suppresse any other power, hat shall take up armes to subvert Religion, Lawes, Liberties, the Republike, or the ust Rights and Priviledges of the Subject, or of this higher power. This is our oposites owne argumentation. Therefore the Parliament being in verity the highest upreame Power in our State, may lawfully with good conscience take up Armes to esist or suppresse his Majesties Malignant, Popish Forces, or any other power which lready hath, or hereafter shall be raised to subvert Religion, Lawes, Liberties, the Republike, just Rights and Priviledges of Parliament, or the Subjects; and every nan with safe conscience may chearefully serve in such a warre, upon the Parliaments encouragement or command, without guilt of treason, or rebellion either n Law or Conscience.

For the third Question; *Whether Tyrants or unjust oppressing Magistrates, as they are such, be within the intendment of this Text, and not to be resisted in any case?* I have fully cleared this before from the occasion, scope and arguments used in this Chapter; hat they are not within the compasse of this Text; as they are such, and may be resisted in their Tyranny and oppressions notwithstanding this inhibition; I shall not repeat, but onely fortifie this Position with some new reasons and authorities. *Quest. 3.*

First then, that which is not the ordinance of God, but rather of the Devill, and he meere sinne and enormity of the Governour himselfe, not of the Government, s not within the intention of this Text, and may lawfully bee resisted without any violation of it. But Tyrants and unjust oppressing Magistrates as they are such, are (*n*) *not Gods ordinance, but rather the Devills* and their Tyranny and oppression *is onely the sinne and enormity of the Governours themselves, not of the government*; A truth granted by all men: Therefore they are not within the compasse of this Text, and may lawfully be resisted without any violation of it.

(*n*) See Mich. 3.1.2.5 Hay 3.4.5. Zech. 3, 3. Ezech. 45. 8, 9.

Secondly, that which is no point of the Magistrates lawfull power ordained of God, but diametrally repugnant to it, cannot be within the meaning of this Text,

and may lawfully be resisted; but the tyranny, oppression, rapine, and violence of lawlesse Kings and Magistrates are such, as all must and doe acknowledge. *Ergo*, they are not within the verge and compasse of this Text, and may lawfully bee resisted.

(o) In Rom. 13. *Col.* 1266. *Willet.* on Rom. 13. *quest.* 6. *p.* 583.

Thirdly, all powers intended in the Text, are not only ordained, but *ordered* of God, that is, (as(o) *Paræus* with others observe) *they are circumscribed & bounded with certain Rules or Lawes of justice and honesty, within which they must containe themselves, else they exorbitate from Gods ordinance when they passe beyond these limits, and become none of Gods*; This the Greeke word τέλαγμένα, (which *Arias Montanus* and others render, *ordinatæ*, and the Margin of our English Bibles, *are ordered of God*;) doth sufficiently warrant being coupled with the subsequent limitations; *For rulers are not a terrour to good workes, but to evill, &c. they are Gods Ministers attending continually on this very thing.* Now the Tyranny and oppression of Kings and other Rulers, are meere exorbitances, arbitrary illegall actions, exceeding the bounds of justice and honesty prescribed by the Lawes of God and men. Therefore not within the limits of this Text, and resistible.

Fourthly, it is generally accorded by all Commentators, that though the lawfull power of Princes or other Magistrates degenerating unto Tyrants, be of God, and not to be resisted; yet the *Tyranny it selfe, and abuse of this power is of Sin, not of God, and the vice of the persons onely, not of the Power it selfe*; whence they conclude, *that Tyrants are not within the meaning of this Scripture.* So *Origen, Paræus, Willet*, with most others on this Text; and *Zuinglius* most expressly *Explanatio Artic.* 41. *Tom.* 1. *f.* 82. 83. where he complaines, *that many Tyrants, cheate, steale, rob, slay, plunder, and attempt any thing against their subjects to oppresse them; assuming a pretext and vayle of their malice from this Text of Paul.* Yea *Dominicus Soto, Cajetan, Pererius*, and other Popish commentators on this place observe; that *Paul addes this Epithet, of higher or excelling powers* (omitted by him in other parallel Texts) *of purpose to exclude Tyrants, who are no excelling Lords, nor lawfull Powers; reigning oft times by Gods permission for the peoples punishment; not by his ordination for their good*: and blame *Bucer* for saying, that *Tyrants power is from God, as if he were the author of sinne and Tyranny.*

(p) *Sect.* 2.

This then fully answers that absurd errour of Docto (p) *Ferne*, wherein all his force is placed: *That the Powers in Pauls dayes which he here prohibits to resist, were subverters of that which was good; and the Roman Emperors Tyrants*: where he sottishly confounds the tyranny, lusts, and vices of the Emperors persons, which were detestable, with their power it selfe, which was good and commendable; as if the Imperiall power it selfe was ill, because *Nero* was ill, *and was* (q) *therefore justly condemned to death by the Roman Senate, as a publike enemy to the Roman State*, though they approved and continued his just Imperiall principality, which lasted in succession for many hundred yeares after his censure, death. To which I shall onely adde; that though *Nero* himselfe were a Tyrant, yet the Roman Senate, and all their Inferiour Offices were not Tyrants; many of them, no doubt, being just and upright Magistrates. The Precept therefore being thus in the generall, and the plurall number, *Let every soule be subject unto the higher powers*; nor personall; let them be subject to *Nero*; or speciall, to the Roman Emperour (whom *Paul* no doubt would have (r) *specified*, had he specially intended them, as our opposites fondly dreame;) we may safely conclude, that the Apostle intended it onely of lawfull powers and Magistrates, not of *Nero*

(q) *Grimston, Suetonius, Eutropius, Zonaras, Volaterranus, Speed* and others in his life.

(r) As he doth Phil. 4. 22. Act. 25. *v.* 10, 11, 12, *c.* 26. 32. *c.* 28. 19. See Matth 22. 17. 21. Luk. 2. 1. *c.* 23. 2. Acts 11. 28. *c.* 17. 7.

or

or other Tyrants: And writ this to Christians onely, to whom he dedicates this Epistle, witnesse Ch. 1. V. 7. *To all that be at Rome beloved of God, called to be Saints, &c.* not to Pagan Romans, as the Doctor dreames, to whom he writes not; much lesse to the *Roman Senate*, who were then the soveraigne power; and therefore could bee subject to no other but themselves. Precepts of obedience to children and Servants, concerne not parents and masters as such, in point of submission or obedience.

For the fourth Quere: *Whether Kings and Kingdomes be Gods ordinance; or an institution Jure divino, not a humane ordinance, instituted Jure humano?* or, how *Jure divino or humano?* Is a necessary considerable question grounded on this Text, and very needfull to be discussed to cleare the present controversie. *Quest. 4.*

Some of our opposites are so intoxicated with the divinity of Monarchy, as they confidently (s) determine: *That the efficient cause of royall Monarchicall power is only God; not the people. That Kings receive no power or regall Authority from the people, but from God alone; That the power of Kings is not a humane, but a divine power, of which God onely is the efficient cause. That the people doe not make the King, but God properly and absolutely; this power, right and authority he hath from God. That the King hath no dominion and power from his Subjects by way of trust, but from God, from whom he hath his kingdome and power, so that by Idolatry and oppression, he breakes not the trust reposed in him by his Subjects, because the people* HAVE COMMITTED NOTHING TO HIS CHARGE, *but God onely*, &c. For proofe whereof they produce *Prov.* 8. 15. *By me Kings reigne, Dan.* 2. 21. *God removeth Kings and setteth up Kings, Dan.* 4. 17. 25. *The most high ruleth in the kingdome of men, and giveth it to whomsoever he will; and setteth up over it the baseest of men, with Hos.* 13. 11. 1 *Sam.* 10. 1. *Jer.* 27. 5, 6, 7. *Isay* 45. 1, 2. and other Texts.

(s) Doctor *Ferne, Sect.* 2. 3 Appeale to the Conscience. *p.* 11. 015 The necessitie of subjection. *Christus Dei, p.* 111. 12 with others.

To answer this question distinctly, and dissipate these grosse erroneous Paradoxes; we must distinguish: *Answ.*

First, betweene, *Government it selfe in generall*, and kingly or other kindes of government, in speciall. (as our opposites distinguish betweene, a *Sabbath*, and the *Sabbath*; the first they say is morall and of divine institution, the later not.)

Secondly, betweene the Regall power of Kings, the persons invested with this power, the manner of obtaining, and the administration of their power.

Thirdly, of Gods manner of instituting and ordaining things; which is twofold, immediately by himselfe, mediately by others. And these institutions of both kinds are either universall, extending to all places, Nations; or particular, concerning some Countries, and Nations onely, and not others; Perpetuall for ever, or temporall onely for some set time: Immutable, not capable of the least alteration; or mutable, and that either at the pleasure of God onely; or at the will of men, when they shall see just cause, either in part or in whole.

Fourthly, in what severall senses things may be said to be of God. First, in respect of his owne immediate institution. Secondly, of his generall or speciall commands. Thirdly, of his generall or speciall disposing providence, without any speciall institution or command. Fourthly, of his approbation of, assent unto, and blessing on the meere institutions of men. Fiftly, of his permission onely.

To apply these distinctions to the present occasion.

First, it is cleare, that power and government in generall are Gods owne institution; who as he hath *appointed (in the great fabricke of the world a* (t) *certaine constant*

(t) Gen. 1. 16. 15. 28. 29. 30. Jer. 31. 35, 36. Psal. 136. 8, 9.

forme of government and subordination of one creature to another) so he hath for the good of mankinde, appointed that there should be some forme of government or other among men in the world; which in respect of families hee hath specially and universally decreed, (*u*) *as that the wife should be subject to the husband, the children to the parents, the servants to their masters*; but in regard of Commonweales, or Nations, hee hath left it arbitrary and indefinite, leaving every Nation and Country free liberty to elect such a publike politike forme of government, as themselves should judge most expedient for their publike good, and that mutable (since all humane things are so) as they should see just occasion, not prescribing any sempiternall, immutable forme of government to any particular Nations, Regions, much lesse to all the world.

(*u*) Gen. 3.16. Exod. 20.12. Ephes. 6.1, 2, 5 c. 5.22.24. Col. 3.23. to 25. c. 4.1, 2. 1 Tim. 6. 1, 2. 1 Pet. 2.18. c. 3.1, 2, 3.

Secondly, government in generall being thus of God, but the kindes of it thus left arbitrary to mens institution and free election; the particular governments instituted by any Nation for the better regulating of their lives, the preservation of humane society, and advancement of Gods glory, may be truely said in some sense *to be of God*, though instituted, invented by men. Not because God himselfe did immediately ordain or prescribe them by speciall command to all, or any one people: or because God himself did immediately ordaine or prescribe them by speciall command to this, all, or any one people: but because hee by his generall or speciall providence did direct this Nation to make choyse of such a government, or gave them wisedome to invent and settle it, as most commodious for their republike, till they should see cause to alter it: or because he blessed and approved it, when invented and received by them.

Thirdly, Kingly powers, Kingdomes, Kings (the things now in question) are, and may be said to *be of God, and ordained of God*, in no other manner or sense, then all other particular Governments or Magistrates are. For this Text of the Romans, speaking onely of the *higher powers*, *the powers that are*, and *of Rulers*; as doth that place of *Titus* 3.1. And the Text of *Prov.* 8. 15, 16. (so much relied on by the objectors) extending as well to all subordinate Rulers as Kings; witnesse the subsequent words, *By me Kings reigne, and Princes decree justice: by me Princes rule* AND NOBLES, *yea* ALL THE JUDGES OF THE EARTH; (that is, all Magistrates whatsoever) it cannot but be yeelded, that all and every lawfull kinde of government, all lawfull Rulers and Magistrates of what sort soever are of Gods *ordination, and his ordinance*, as farre forth as Monarchies are; and what is truely affirmable of the one, is of the other too.

(*y*) *Josephus Antiq. Jud. l. 4. c. 8. Carolus Sigonius de Republ. Hebræorum. l. 7. c. 5.* (*z*) *Aristot. Polyt. l. 3. & 5. Polib. Hist. l. 6. Justin. in Hist. l. 1. Cassanæus Catalog. Gloriæ Mundi pars. 5. Consid. 1. Philochius Architectonicæ Stor. Viridarii, c. 171. Fortescue c. 9. 13. 15. Mr. Seldens Titles of Honour, part. 1. c. 3. 4. 5.*

These generalls thus premised as indubitable; I say first of all: *That Monarchy or regall power is not of God, nor yet Gods ordinance by way of immediate divine institution or speciall command from Gods owne free motion*, as our opposites affirme it.

For first, God himself never immediately instituted a royall Monarchicall government in any Nation whatsoever, no not among his owne people; whose government was at first (*y*) *Paternall and Patriarchicall*; *next Aristocraticall*; *then Regall*; *not by Gods immediate institution and voluntary designation, but by the peoples earnest importunity, contrary to the good liking of God and Samuel*, as is evident by 1 *Sam.* c. 8, and 9, and 10, and 11. *Hos.* 8. 4. and the Appendix.

Secondly, (*z*) *All Politicians, and Historians grant, that the originall erection of all Monarchies was either by the peoples free consent and ordination*; *or by Tyranny and usurpation*; *or by*

by conquest; none by divine institution or speciall command from God: And it must needs be so, because *most* (a) *kingdomes were primitively erected, either among Pagan Nations and States, who knew not God nor his Word, or among Christian States since speciall commands and Revelations from heaven ceased*: which if our opposites deny; I shall desire them to instance in any one Monarchy in the world, instituted immediately by God himselfe, or by speciall command from his owne free motion: Till this be done, all their asseverations will be accounted fabulous.

(a) Gen. 14. 1 Sam 8 5. *Seldens* Titles of Honour, *part* 1. c. 1. 2. See the Appendix.

Thirdly, if Regall power be Gods ordinance by way of divine immediate institution and command; then this institution of Regall Monarchy, with the severall Prerogatives, and boundaries of it, would appeare in some Text of Scripture, and this government would be specially and perpetually prescribed either to all, or some particular Nations by God himselfe. But this institution, with the generall Prerogatives and bounds of Regall Authority, are no where extant in Scripture, neither this forme of government therein prescribed, but left arbitrary to all or any Nation in particular, for ought any man can demonstrate. Those Texts which concerne the Kings of the *Israelites* in point of soveraignty, and Prerogative, being judiciall onely, and peculiar to that Nation, nor morall, or extending unto others. Therefore it is not Gods ordinance by way of divine immediate institution, or command.

Fourthly, if it were of divine ordination in this sense; then the Regall power and authority of all Kings and Monarchs in the world should bee equall, yea the very same; and there should be no different kinde of Kings; as the divine authority of all Ministers (being of Gods owne institution by one and the same commission) is one and the same: But the regall power and jurisdiction of all Kings and Monarchies in the world is not equall nor the same; for some have farre greater authority then others; there are many different sorts of Kings in the world, *some onely annuall, others for life, others hereditary, others at will, deposible at the peoples pleasures when ever they offended*, (*Such were the Kings of the* (b) *Vandalls in Africk, of the* (c) *Gothes in Spaine; cum ipsos deponerent populi quoties displicuissent*: such the Kings of the *Heruli* (*Procopius, Gothicorum*) Of the *Lombards, Paulus Warnafredi, l.* 4. *&* 6. Of the *Burgundians, Ammianus*, 11. *lib.* 28. Of the *Moldavians, Laonichus Chalcocandylus*; the King of *Agadis* among the *Africans, Joannis Leo, lib.* 7. Of the *Quadi* and *Jazyges* (*in excerptis Dionis*) with sundry others hereafter mentioned.) Some elective, others successive, some conditionall, others absolute, as I have plentifully mentioned in the *Appendix*. Therefore they are not of divine ordination in the objectors sense.

(b) *Procop. Vand. l.* 1.
(c) *Ammian. l.* 2. *c.* 2. *l.* 4. *c.* 2 5. *Hugo Grotius de Jure Belli. l.* 1. *c.* 3. *c.* 58. 72.

Fifthly, If Kings were of divine ordination in this sense, then their kingdomes and people upon their Elections, Institutions and Coronations could not justly prescribe any conditions, oathes or covenants to them, upon promise of performance whereof they onely accept of them to be their Kings, refusing else to admit them to reigne over them; and such conditions, oathes, covenants, would be meere nullities, since men have no power at all to detract from Gods owne divine institutions, or to annex any conditions or restrictions to them. But our Antagonists themselves dare not averre, that Kingdomes and Nations upon their Kings Coronations, Institutions and elections may not lawfully prescribe conditions, oathes, and limitations to them, upon promise of performance whereof they onely submitted

to them as their Soveraignes, it being the received practise of our owne, of all or most other Kingdomes whatsoever, especially elective ones, and confirmed by divine Authority, 2 *Chron.* 10. 1. to 19. Therefore they are not of divine institution in the objected sense.

(e) *See Part* 1. *p.* 51. *to* 76. *Edit.* 2.

Sixthly, All (f) *Lawyers* and most *Orthodox Divines determine, that Kings have no other just or lawfull royall Authority*, but that which the Lawes and customes of their Kingdomes allot them, and *that the Law onely makes them Kings, from which if they exorbitate they become Tyrants and cease to be Kings.* Their Royall authority therefore is of humane institution properly, not Divine; from their people, who both elect, constitute them Kings, and give them all their regall Authority by humane Lawes enacted, not from God as the onely efficient cause.

(f) *Bracton l.* 3. *c.* 9. *Fleta l.* 1. *c.* 5. 17. *See here, p.* 5. *& part* 1. *p.* 88.

Seventhly, All Kingdomes, Monarchies, Policies, are mutable and variable in themselves, while they continue such; yea, temporary and alterable into other formes of Government by publicke consent, if there be just cause; without any immediate command or alteration made by God himselfe, or his divine authority: There being no positive Law of God confining any Nation, (whose humane earthly condition is still variable) to a Monarchicall or any other constant forme of government only, much lesse for perpetuity without variation. Therefore, they are not of divine institution in this sense.

Eightly, St. *Peter* expressely defines Kings and Monarchies, in respect of their institution, to be humane creatures, or institutions, 1 *Pet.* 2. 13. *Submit your selves to every* ORDINANCE OF MAN *for the Lords sake; whether it be to the King, as supreame, &c.* And they are common to Pagans who know not God, as well as to Christians. Therefore, they are not simply divine, but humane Ordinances.

Ninethly, Our Antigonists will yeeld, that other formes of Government; whether *Aristocraticall, Oligarchicall, Democraticall*, or mixt of all three, are not absolutely and immediately of divine institution; nor yet *Dukes, Principalities*, with other inferior *Rulers*, though the Apostle in this Text makes them all equally Gods Ordinance, and Divine. Therefore Monarchy, Kings and Kingdomes are not so.

Tenthly, The very Text it selfe seemes to intimate, that Royalties and higher powers are not of God, by way of originall or immediate institution, or command: for the Apostle saith not; that all powers whatsoever were originally instituted and ordained by God himselfe; but, *There is no power but of God; The powers that be, are* (not were at first) *ordained* (or rather, ordered) *of God*: that is; where powers and Governments are once erected by men, through Gods generall or speciall providence, there God approves and orders them for the good of men.

(g) Psal. 86. 10 Deut. 32. 39. Isa. 37. 16. c. 44 6. 1 Cor. 8 4. Ephes. 4 6.
(i) 1 Tim. 6. 15 6. 15. Rom. 7. 14. c. 19 16. Deut. 10. 17.
(i) Deut. 17. 14. 15, 16. 1 Sam. 8. 22. 2 Sam. 7. 12.
(k) 2 Sam. 23. 3, 4. 1 King. 11 11. 38. 2 Chro. 9, 8. Prov. 31. 4

2. If Monarchies, and Kings themselves be not of divine institution, and Gods ordinance in the former sense, as is most apparent: & *Aristotle, Plato*, all Politicians grant; Then they are so onely in some other sense, in what I shall truely informe you.

First, They are of *God*, and his *Ordinance*, by way of imitation, as derived from Gods owne forme of Government, which is Monarchicall; Whence he is called, (g) *The only God, God alone*, (h) *the King of Kings, and Lord of Lords.*

Secondly, By way of approbation; *He* (i) *approves and allowes this kinde of Government where it is received, as well as other formes.*

Thirdly, by way of direction, he gives divers *generall* (k) *rules and directions to Kings*

Kings (and to other Rulers and Magistrates also as well as them) *in his sacred word how they ought to demeane themselves, towards him and their Subjects*; and likewise (*b*) *to Subjects, how they should carry themselves towards their Kings*; and all other Rulers and Governours temporall or spirituall: in which sense they may be properly said, to be *ordered* and *ordained* too, of God. (*b*) 1 Tim. 2. 1, 2. 1 Pet. 2. 13, 14. Rom. 13. 1 to 7. Tit. 3. 1.

Fourthly, By way of speciall providence and incitation; God excites and moves some people to make choyce of Kings, and Monarchicall formes of Government, rather than others; and to elect one man or family to that dignity rather than others, yea his *providence mightily rules* and swayes in the changes, the elections, actions, counsels, affaires of Monarchies, Kingdomes, Kings, States, to order them for his own glory, the Kings, the Subjects good or ill, in wayes of Justice or Mercy; as is evident by *Dan.* 2. 21. *c.* 4. 17. 25. *Hos.* 13. 11. *Jer.* 27. 5, 6, 7. *Isa.* 45. 1, 2, 3. *c.* 10. 5. to 20. *Psal.* 110. 5. *Psal.* 113. 7, 8. *Job* 12. 18. to 25. *Dan.* 5. 26. 28. The genuine drift of all these Texts.

Fifthly, Kings may be said to be of God and his Ordinance, because they, (and so all other Rulers, Judges, Magistrates as well as they, in respect of their representation and the true end of Government) are said *to be Gods; to be Gods Ministers and Vicegerents; to sit upon Gods Throne, and ought to reigne, to judge for God, and to rule Gods people according to Gods Word, with such justice, equity, integrity as God himself would Governe them.* *Exod.* 22. 28. 2 *Chron.* 9. 8. *Rom.* 13. 4, 5. 2 *Sam.* 23. 3. *Psal.* 78. 72, 73, 74. 2 *Sam.* 5. 2. *Prov.* 8. 15, 18. *Psal.* 82. 1. 1 *Cor.* 8. 5. *Isa.* 32. 1. *c.* 9. 7. *c.* 16. 5. *Deut.* 1. 17.

Sixthly, Ill Kings, and Tyrants, may be said to be of God, by way of permission, and of Ordination too, in reference to the peoples punishment, *Job* 34. 30. *Hos.* 13. 11. 1 *Sam.* 8. 18. In these regards (common to all other Governours and lawfull Governments, as well as Kings and Monarchies) Kings and Kingly Authority, are and may be said to *be of God*, and *Gods Ordinance*; yet not immediately, or properly in the first acception, here refuted, but so as that still they are really the institutions and ordinances of men, of humane, not divine right, and authority.

As for the objected Scriptures to prove Kings *jure Divino*, as *Prov.* 8. 15. *By me Kings Reigne, &c. Ergo*, they are of immediate divine institution, and have all their authority from God, not from the people, and may in no case be resisted, censured, deposed, or put to death for any misdemeanours; the consequences thence inferred. *Object.*

I answer, First, That this Text speakes onely of the promotion or Reigne of Kings; not of the erection and power of Monarchies; and so doe *Daniel* 2. 21. *c.* 4. 17. 25. *c.* 5. 26. 28. with the other objected Scriptures. *Answ.* (*m*) 2 Chro. 9. 8. Isa. 32. 1. *c.* 16. 5.

Secondly, If it be meant of the rule of Kings; then true it is, that good Kings Reigne by Gods direction, according to his word, *executing justice, and judgement, as he enjoynes them*; But then it is not true of wicked Kings and Tyrants, who though they Reigne by Gods Providence or permission, yet they rule not by his word and will as he prescribes them.

Thirdly, If it be meant of the meanes and manner of Kings comming to their Kingdomes, as I conceive it is, and the Texts of *Daniel* perswade:

True it is: first, That some Kings Reigned and came to the Crowne by Gods immediate

mediate nomination and designation, as *Saul*, *David*, *Solomon*, *Jeroboam*, *Jehu*, and *Hazael* did: But that all, or most did heretofore, or now doe so, especially in Pagan Kingdomes, is a notorious falshood.

Secondly, it is true, That most lawfull Kings in hereditary or elective Kingdomes, come to their Crownes, and Reigne; though not by Gods immediate nomination, yet by his ordinary or speciall providence, (though it be untrue of *Usurpers*, and *Tyrants* who come to Reigne by Treason, Murther, or other unlawfull meanes; and so by Gods (*l*) *permission onely, rather than his providence*: and then the sense of the place is but this; That Kings receive their Crownes, and Reigne by Gods generall, or more speciall providence: Which I thinke is the full and proper sense of the place. In this sense *C. Plinius Secundus* a heathen in his admirable *Panegyric* to the Emperour *Trajan*, a Pagan, Rhetorizeth thus of him: *Quid enim præstabilius est, aut pulchrius munus Deorum, quam castus & sanctus & Diis simillimus Princeps? Ac si adhuc dubium fuisset sorte casuque Rectores terris, an aliquo numine darentur, Principem tamen nostrum liqueret* DIVINITUS CONSTITUTUM. *Non enim occulta potestate fatorum, sed ab Jove ipso, coram ac palam repertus, electus est, &c.* Which * *Tertullian* thus seconds, speaking even of the Roman Pagan Emperours. *Inde est Imperator, unde & homo antequam Imperator; inde Potestas ei, unde & spiritus: Per Deum tantus est:* So *Irenæus*, *Cujus jussu homines nascuntur, hujus juss[u] Reges constituuntur.* And *Diodorus Siculus* of the *Ægyptians*; *Existimant non* SIN DIVINA QUADAM PROVIDENTIA, *pervenisse ad summam de omnibus Potestatem*: So the (*m*) *Esses*, hold this opinion, *Non obtingit cuiquam Imperium sine Dei cura speciali*: So (*n*) *Vitigis*, *Omnis provectus, maxime Regius, ad Divinitatis munera referendus est*: and *Clemens* (*o*) *Romanus*, too: *Regem timeto, sciens Domini esse electionem.* Which *Grotius de Jure Belli, l.* 1. *c.* 3. *sect.* 8. confirmes with other Authorities; all concurring in this, That Kings and Emperours are such onely by the selfe-same PROVIDENCE OF GOD, by which they were men before they were Emperours; which gives them no greater Prerogative in respect of irresistibility in unjust exorbitant actions, then their being men, by the selfe-same providence of God, gave them before they were Emperours, as *Tertullians* words most clearely prove.

(*l*) *See Doctor Willet, Paræus,* and others on Rom. 13.

* *Apologeticus.*

(*m*) Porphyr.
(*n*) *Apud Cassiodorum.*
(*o*) *Apostol. constit. l.* 7. *c.* 17.

But what priviledge this alone should yeeld to Kings, more than to any other Magistrates, Men or Beasts, for my part I cannot yet discerne. For doth not the same Text say of Nobles, Princes, Judges, as well as of Kings, *Prov.* 8. 15, 16. *By me Princes* (put as contradistinct to Kings) *decree justice; By me Princes Rule* AND NOBLES, YEA ALL JUDGES OF THE EARTH? Doth not *David* say of all kinde of Promotions whatsoever, *Psal.* 113. 7, 8. *The Lord raiseth the poore out of the dust, and lifteth the needy out of the dunghill; that he may set him with Princes, even with the Princes of his people?* And *Psal.* 75. 5, 6. *Promotion commeth neither from the East, nor from the South; but God is the Judge; he putteth downe one and setteth up another?* Nay, doth not Christ informe us (*p*) *That the very haires of our head are all numbred? That two sparrowes are sold for a farthing, and yet one of them shall not fall on the ground without our Fathers providence?* Yea doth not every *man*, yea every *Bird*, *Beast*, *Fish*, *Raven*, and living creature whatsoever, (as the Scripture (*q*) expressely resolves) receive, enjoy their *Lives*, *Honours*, *Offices*, *Estates*, *food*, *rayment*, being, preservation, by Gods generall and speciall providence, as well as Kings their Crownes, Honours, Lives, Estates?

(*p*) Mat. 10. 29 30. Luk. 12. 6, 7
(*q*) Psal 105. 27. 10 32. Psal. 145. 14, 15, 16. Psal. 17. 27, 28.

And

And is not the providence, yea are not the very (o) *Angels of God, who are all ministring spirits, sent forth to minister to them who shalbe heirs of salvation, as vigilant over every pious Christian* (though never so mean & despicable) *as over the greatest Monarch in the world?* If so, as all men must necessarily acknowledge (*there being* (p) *no respect at all of persons with God, who accepts not the persons of Princes, regards the rich no more then the poor, for they are all the work of his hands*) then kings reigning by the Providence of God, can of it self no more exempt them from resistance, censures, deprivations, for their detestable publike crimes, then it exempts any other Nobles, Princes, Iudges, Magistrates, Christians, or the meanest subiects whatsoever; which I shall make good by one more unanswerable demonstration. There is not one of our Antagonists but will acknowledge, that *Priests under the Law*, and all *Ministers under the Gospell*, if rightly qualified, are made such not only by Gods speciall Providence, but likewise by Divine institution from God himself; Nay, *Tollet*, (q) *Willet*, and many others on this very Text of the Romanes, *make a difference between the civill and Ecclesiasticall Regiment and Power: for the first* (say they) *is so from God, that yet the institution thereof may be devised and altered by man, and therefore* Peter *calls it, the Ordinance of man; but the spirituall Power is immediatelly instituted by God, and no wayes alterable or determinable by man: And therefore the Apostle saith* Ephes. 4. 11. *He gave some to be Apostles, some Prophets, some Evangelists, &c.* So that by their determination, Ministers are more Gods Ordinance, and more *jure Divino*, then Kings; yea but few years since they all professed themselves to be as much, if not more, *Gods anointed*, then Kings; and some of our * *Archest Prelates* made publike challenges in the open Court, *That if they could not prove their Lordly Episcopacy to be* Iure Divino, *they would presently burn their Rochets, and lay down their Bishopricks*; though they never made good their promises: & so doubt, *whether the* Pope *and his supreme Authoritie be* iure Divino *by Christs own immediate institution, deserves a fagot in the Roman Church*: Yet notwithstanding all this Divine Right and institution, our Opposites will grant, That if Popes, Archbishops, Bishops, Priests, Ministers preach false Heretical doctrines, oppresse, wound, slay, rob, plunder the people committed by God to their cures; or *attempt with force to subvert Religion, Laws, Liberties; or commit any capitall offences, they may not onely with safe conscience be resisted, repulsed by their people, but likewise apprehended, arraigned, deprived, condemned, executed, by Lay Iudges*, as infinite examples in our Histories manifest, and the example of *Abiathar the High Priest*, 1 *Kings* 2. 26, 27 And if so, then *why not Kings* as well as they, or other temporall Magistrates, notwithstanding any of the obiected Texts? Either therefore our Opposites must grant all Bishops, Priests, Ministers, yea, all other Magistrates whatsoever, as irresistible, uncensurable, undeprivable, uncondemnable, for any crimes whatsoever, as they say kings are, which they dare not do; or else make Kings as resistible, censurable, deprivable, and lyable to all kindes of punishments, (by their whole Kingdoms consent in Parliament) as far forth as they, notwithstanding all the former Objections, which quite subverts their cause.

(o) *Psa.* 307. *Psal* 92. 11, 12. *Act.* 12. 7, to 18. *Heb.* 1. 14.
(p) *Rom.* 2. 11. *Acts* 10 34. 1 *Pet* 1. 17. *Deut.* 10. 17. *Iob* 34. 19, 20. 2 *Chron.* 19. 7. *Gal.* 2. 6. *Ephes.* 6 *Col.* 3. 25.
(q) *Quest.* 4 *on Rom.* 13. *p.* 580. See *Cassanaus, Catalogus Gloriæ Mundi, pars* 4. *Consid.* 1. to 8.
* *Archbishop Laud and Neal, in the High Commission and Starchamber.*
(r) See *Bellar. de Rom. Pont. Cassaneus Catalog. gloriæ Mundi, pars* 4. *consid.* 7.

Thirdly, Kings and Kingdoms are not so Gods Ordinance, as that they should be universall over all the world, and no other Government admitted; or so, as any one Nation whatsoever should be eternally tyed to a Monarchicall Government, without any power to alter it into an *Aristocracy*, or other form, upon any occasion; or so as unalterably to continue the Soveraign power in one family alone, as not to be able

to transfer it to another, when the whole State ſhall ſee juſt cauſe: Hereditary Kingdoms being but Offices of publike truſt for the peoples good and ſafety, as well as elective; moſt of them were elective at firſt, and * made hereditary *onely either by violent uſurpation, or the peoples voluntary aſſents and inſtitution, and not by any immediate divine Authority*, and ſo alterable by their joynt aſſents, as (*ſ*) *Zuinglius*, (*t*) *Buchanon*, (*v*) *Mariana* obſerve, and the Hiſtories of moſt Kingdoms, the experience of all ages evidence. Which truths being generally confeſſed by all (*x*) *Politicians, Hiſtorians, Statiſts*; by many judicious Divines, contradicted by no one text of Scripture that I have met with which our Oppoſites have objected hitherto, they will finde all Monarchies upon the matter, to be meer humane Inſtitutions, alterable ſtill by that humane Power which did at firſt erect them, and ſubordinate ſtill thereto, as the Creature to its Creator; and to be Gods Ordinance onely in regard of ſpeciall providence, and the like, as other inferiour Magiſtrates, Rulers are, who may be juſtly reſiſted, altered, removed, cenſured, notwithſtanding the objected Text. From which whiles ſome men earneſtly preſſe, that *every ſoul by Gods own Ordinance, ought to be ſubject to ſome publike civill power*, (which (*y*) others ſafely deny, ſince the Patriarks, the firſt families of moſt Nations and Countries were not ſo, and all Nations, all people before ſetled publike governments, were erected, which in many places are not very ancient; ſince thoſe whoſe Parents are dead, and are not by them ſubjected to a Government, are naturally free; and none bound to part with their freedom to any other, unleſſe they ſee a neceſſitie, a great advantage, and that upon ſuch terms and conditions as they deem meet,) they involve even Kings and Emperours themſelves by Gods own Ordinance, in a ſubiection to a ſuperiour earthly civill power, to wit; to their Laws, Parliaments, Kingdoms, (which I have proved Paramount them, collectively conſidered) according to the common proverbe (*z*) *Omne ſub Regno graviore Regnum eſt*; and that of (*a*) *Solomon* (concerning oppreſſing Kings and Judges) *He that is higher then the Higheſt conſiders, and there be higher then they:* And ſo make kings not onely reſiſtble by their whole Kingdoms the ſupreme Soveraign power, but likewiſe ſubiect to their Realms ſuperiour commands, and uncapable to reſiſt their lawfull power and Forces even in point of Conſcience, by vertue of this very Text. And ſo much for the fourth Queſtion.

For the fifth and laſt, (*b*) *What kinde of reſiſtance of the Higher powers is here prohibited?* I anſwer briefly, That reſiſtance is here forbidden, which is contrary to ſubiection or obedience, as the words, *Let every ſoul be ſubject to the higher Powers*, coupled with the enſuing reaſon, *Whoſoever therefore reſiſteth* (that is, diſobeyeth, or is not ſubiect to) *the Power, reſiſteth the Ordinance of God*; *and they that reſiſt ſhall receive to themſelvs damnation.* In the Greek there are two diſtinct words uſed, ἀντιτασσόμενος, & ἀντιστάντες, the Latine, Engliſh, French, Dutch uſe them both as one, without diſtinction: The firſt word ſignifies properly *diſordered, counter-ordered, or ordered againſt*, (as *Paraus, Willet*, and others obſerve) and it is thus uſed by the Apoſtle, 2 *Theſſ.* 3.6,7,11; or *diſobedient.* 1 *Tim.* 1.9. The later word ſignifieth properly *to reſiſt, withſtand*, or *oppoſe*; in which ſence it is uſed, *Matth.* 5.39. *Luke* 21.1,5. *Act.* 6.10. *Rom.* 9.19. *Gal.* 2.11. 2 *Tim.* 3.1. *Hebr.* 12.4. *Iam.* 4.7. *chap.* 5.6. 1 *Pet.* 5.9. and applied indifferently both to a *ſpirituall, corporall, and verball reſiſtance of the Holy Ghoſt, the Devill, or men:* Since then the Apoſtle in this Text uſeth the Hebrew phraſe *Soul*, not *Man*, *Let every Soul be ſubject to the Higher Powers*; be-

cauſe

* *Foxius de Rege, &c p.17. Grotius de iure Belli, l.1. c.3. n.10.*

(*ſ*) *Explan. Artic.42.*

(*t*) *De iure Reg apud Scotos.*

(*v*) *De Rege & Regis Inſtit. l.1. c.4 to 8.*

(*x*) *Ariſt. Polit. l.3. & 5. Polyb. Hiſt l.6. Gen. Hiſt. of France, Spain, Hungary, Bohemia, England: Grotius de iure Belli, l.1. c.4. n.7 Covarr. Queſt. Illuſtr. T.2.396, n.2-4. Vaſquries Contr. Illuſtr. 59. n.8,6). n.22 100. n.29. Hookers Eccleſ. Polit. l.ſec.10. p.69.70,71.*

(*y*) *See Scripture and reaſon pleaded for defenſive Arms, p.30,31,32.*

(*z*) *Seneca Grotius de Iure Belli, l.1. c.4. ſect.6. p.84.*

(*a*) *Eccles. 5.8. Queſt. 5.*

(*b*) *See Paraus, Willet, Tollet, Soto, Marlorat, and others on this Text.*

cause (as *Haymo, Tollet, Willet, Soto*, and most other Interpreters observe) we (c) *ought willingly and cheerfully to submit to the higher Powers, not only with our bodies, but soules and spirits too*: I may hence cleerly inferre, that the resistance of the higher Power here prohibited as contrary to this subjection, is not only that which is corporall and violent by force of armes, as the Objectors glosse it; but that likewise which is verball, mentall, spirituall in the soule it selfe without the body, and no more then a meer passive resistance, or not obeying: For not to doe what the higher Powers enjoyn, is in verity actually to resist, to withstand them; as not to doe the will, not to yeeld obedience to the motions, dictates of the Holy Ghost or devill is really to *resist* them, even in Scripture phrase: Yea, corporall resistance or opposition by way of force is only an higher degree of resistance, but not the onely or proper resistance here prohibited, which relates principally to the Soule and Spirit. For as corporall forced obedience against a mans will which still holds (d) *out, is no true obedience in the esteem of God or men*: and as the very essence, life of all outward obedience *consisteth* (e) *principally in the cheerfull submission or activity of the soule or will*: So a forced corporall resistance against the mind or conscience, *is in a manner no resistance*; and the very malignity, quintessence of all inward or outward resistance, disobedience, rests only in the mind, soule, will; and is here principally forbidden, as is evident by the 5. verse; *Wherefore ye must needs be subject, not onely for wrath* (which relates only to *the body*, which mens wrath can *only harm* in case of *disobedience, Mat.* 10.28.) *but also FOR CONSCIENCE SAKE*, which principally, if not wholly relates unto the soule, of which the conscience is a chief-overruling part. This then being altogether irrefragable, gives our Antagonists, with Dr. *Fern*, an eternall overthrow, and unavoidably demonstrates the resistance of the Higher Powers here preseribed, to be only of iust lawfull powers in their iust commands or punishments, which we must neither corporally, verbally, nor so much as mentally resist, but readily submit too with our very soules, as well as bodies: not of Tyrants or ungodly Rulers iniust oppressions, Forces, proceedings to subvert Religion, Lawes, Liberties, which all our *Opposites*, all *Divines* whatsoever grant, we are bound in conscience *passively to resist, and disobey*; yea, *with our Tongues to* (g) *reprehend*, and our *Souls and spirits to oppose, detest, abhorre, hate in the very highest degree of opposition*, notwithstanding this inhibition: And therefore by like reason are no wayes prohibited, but authorized by it, even forcibly to resist to our utmost power, have we meanes and opportunity so to doe, as the Parliament now hath: That power and proceedings which Christians may lawfully with good conscience, yea and are bound to resist with all their souls, minds, tongues, they justly may and must likewise resist with all their corporall *might and strength*; especially if they have good opportunity, publike encouragements, and meanes to do it, as *Deut.* 6.12. 1 *Pet.* 5.9. *Iude* 3.4. *Phil.* 1.27,28. 1 *Cor.* 16.13. compared together, and with the premised Scriptures, fully evidence. But Christians may lawfully with good conscience, yea must resist with all their souls, minds, tongues, the fore-named violent proceedings of kings, Oppressors, ill Counsellors and Cavaleers, and no wayes submit unto them with their souls, minds, tongues, lest thereby *they should approve and be partakers, with promoters* of their execrable designes; therefore they may and must with safe conscience resist them with all their corporall might and strength, having now opportunity, a Parliamentary publike command and sufficient

(c) *Iudg* 5.2.9. 1 *Cor* 6.3. 12. 1 *Cor.* 9. 17. 1 *Pet.* 5.2. *Philem* 14. 1 *Chron.* 29. 6. 9. 14. 1 *Tim.* 6. 18. *Exod* 35. 21, 22. 29. 1 *Chron.* 28,9. *Psal.* 100. 3.

(d) 2 *Cor.* 9.7.

(e) See (c) *before.* 2 *Cor.* 9.13. 7. *Rom.* 12.8,11.

(g) *Levit.* 19. 17. *Mat.* 14.4. *Psal.* 139.21 22 *Pro.* 29. 27. *Ps.* 11.5.

meanes to execute it. And thus have I now at last not onely most clearly wrested this sword out of the hands of our great opposite *Goliahs*, but likewise cut off their heads, and so routed all their forces with it, as I trust they shall never be able to make head againe.

Yet before I wholly take my leave of this Text, to gratifie our Prelaticall Clergy, I shall for a parting blow adde this one observation more, That all our (*i*) *Popish Clermen heretofore* (*and many of them till this day*) *notwithstanding the universality of this Text, Let every soule be subject to the higher Powers, &c.* not only *pretended themselves to be of right exempted from the jurisdiction, censures, taxes of Emperours, Kings, and all Civill Magistrates,* (Which priviledges some of our late Prelates began to revive, as the late cases of Mr. *Shervill*, the Maior of *Arundel*, and some others evidence, censured for punishing drunken Priests:) but likewise held it lawfull to censure, excommunicate, depose even Emperours and Kings themselves, and interdict their Kingdomes; witnesse not only *the* (*k*) *Popes excommunications of many Emperours and Kings, by apparant usurpation and injury*; but of sundry Prelates excomunications of their own Soveraigns as of right, and putting them to open penances; as K. *Suintilla*, *Sancho*, *Ramir* in *Spain*, and others elsewhere, of which you may read divers presidents in my *Appendix*: The History of (*m*) St. *Ambrose* his excommunicating the Emperour *Theodosius for the bloody murther of those of Thessalonica, is so commonly known*, that I need not spend time to recite it, nor yet the (*n*) excommunications *and censures of our King Iohn, or Henry the* 2. *and* 3. *Suano* King of *Denmark* (as *Saxo-Grammaticus* records) was not onely sharply reprehended, but excommunicated in a most bold and solemn manner by one of his Bishops *for his uncleanesse, and murthering some eminent persons, of whom he was jealous, whiles they* "*were at their devotions in the Church.* This Bishop instead of meeting this King "when he came to enter into the Church, with accustomed veneration, clad in his "*Pontificalibus*, with his Crosier Staffe, kept him from entring so much as within "the Court thereof; calling him not by the name of a King, which he suppressed, but "a *shedder of mans blood*; and not content to chide him, he fixed the point of his "Staffe in his brest, preferring the publike scandall of Religion before private "society, not being ignorant, that the Offices of familiarity were one thing, the rights "of Priesthood another thing, that the wickednesses of Lords as well as servants "ought to be revenged, nor are Noble-mens crimes to be more partially censured, "then ignoble ones: And not content thus to repulse him, he added an execration "therunto and denounced a sentence of damnation against him in his presence, so as he "left it doubtfull, whether he repulsed him more valiantly with his hand, or voyce. "Hereupon the King considering this Act to proceed from zeale and publike severi"ty against wickednesse, and being confounded with the blush of his guilty consci"ence, forbad any to resist his violence, and patiently underwent, heard both his re"pulse and reprehention; After which, this King laying aside his royall Robes, put "on old course apparell, desiring rather to testifie his sorrow by the deformity of his "habit, then his contempt by the splendor of it. And struck with so sad a sentence "of the Bishop, he would not indure to carry about the ornaments of Royall Mag"nificence; but casting away the ensignes of Regall Majesty, he put on sack-cloth "the badge of penitence; putting off his power likewise together with his vestment, "and of a sacrilegious Tyrant, became a faithfull reverencer of holy things. For

"retur-

(i) See *Tostatus*, *Caietan*, *Cornelius a Lapide*, *Soto Estius*, with most Popish Commentators, & *Dr. Hill* on this Text, *Bellarm. de Clericis*, and the Canonists, *de exemptionibus*, & *Immunit. Clericorum.*

(k) *Bp. Bilsons true Difference &c. par.* 3. *p.* 369. *to* 376. *Bp. Whites Defence of the way &c. p.* 14. *to* 22.

(l) *Pag.* 61. *Ge. hist. of Spain.*

(m) *Theod. Eccles. hist. l.* 5. *c.* 17, 18. *Sozom. l.* 7. *c.* 6. 24.

(n) See *Math. West. Matth. Paris*, *Hovedon Polychron. Fab. Caxton*, *Polidor Virgil*, *Holinsh. Stow*, *Grafton*, *Speed*, *Daniel in the Lives of Hen.* 2. *K. Iohn and Hen.* 3.

(o) *Danice hist. l.* 11. *p.* 189, 190, 191.

"returning bare-foot to the Church-porch, he cast himselfe prostrate in the entrance "thereof, and humbly kissed the ground, suppressing the griefe which is wont most "sharply to be inflicted from contempt, with shamefac'nesse and moderation, re-"deeming the fault of his bloody reigne with shame and penitence: After which "confessing his fault, and craving pardon with teares of the Bishop, he was absolved, "and then putting on his Royall Robes, admitted into the Church, and brought up "to the Altar, to the exceeding joy of the people, who applauding the kings humi-"liation and modesty; *plus pœnitentia pium, quam imperio scelestum euasisse con-"fessus*: A memorable story of a zealous stout Prelate, and of a penitent submissive wild Prince: I shall only adde to this some few domestick presidents of our Welch Kings *p) Teudur* king of *Brecknock*, for his periury and murther of *Elgistill*, another King of that Countrey, was *solemnly excommunicated* by *Gurcan* the 10. Bishop of *Landaffe* and *his Clergy*, in a Synod assembled for this purpose, *by uncovering the Altars, casting the Crosses and Reliques on the ground, and depriving him of all Christian communion*, Whereupon *Teudur* unable to undergoe this malediction and rigorous iustice, with a contrite heart, and many teares powred forth, craved pardon of his crimes, and submitted himselfe to the penance impos'd on him according to his quality and greatnesse. (*q*) King *Clotri* slaying *Inguallaun* treacherously, contrary to his League and Oath, *Berthgwin* the 14. Bishop of *Landaffe*, hearing thereof, assembled a Synod of his Clergy at *Landaffe*, and *solemnly excommunicated the King with all his Progeny and Kingdom, by uncovering the Altars, casting down the Crosses on the earth, and depriving the Countrey both of Baptisme and the Eucharist*. Whereupon the King unable to endure so great an excommunication, with great deiection submitted himselfe to the Bishop, and leaving his Kingdom, went on pilgrimage into forraign parts for a long space; after which returning, by the intercession of king *Morcant*, he obtained absolution from the Bishop, to whose enioyned penance he submitted himself, conferring divers Lands upon the Church. And in another Synod at *Landaffe* under this Bishop, King *Gurcan*, for living incestuously with his Mother-in-law was solemnly excommunicated in form aforesaid; whereupon he craved pardon, resolved to put away his Mother-in-law, promised satisfaction by k. *Iudhail* his Intercessor; upon which he was absolved, upon promise of amendment of life, with fasting, prayer and almes; after which he bestowed divers Lands on the Church. (*r*) *Howell* king of *Gleuissig*, contrary to his Oath & League, treacherously circumventing and slaying *Gallun*, hereupon *Cerenhir* the 18. Bishop of *Landaffe*, calling a Synod, solemnly excommunicated him *by laying all the crosses on the ground, overturning the Bells, taking the Reliques from the Altar and casting them on the ground, depriving him of all Christian communion, under which excommunication he remained almost a whole yeers space*; After which, this king came *bare-foot* to the Bishop, imploring his absolution from this sentence with many teares, which he obtained after publike penance enoyned. Not long after the same Bishop and his Clergy in another Synod, for the like crime, in the self-same forme *excommunicated Ili* sonne of *Conblus*, till he came *bare-footed with teares* and prayed absolution; which upon performance of enjoyned penance, promise of future reformation, with prayers, fasting, almes, and the setling of some Lands on the Church, was granted him by the Bishop. So (*s*) *Lonmarch* son of *Cargnocaun*, was in a full Synod excommunicated by *Gulfrid* the 20. Bishop of this See, for violating the patrimony of the Church; and king *Broch-*

(*p*) *Spelm. Concil. tom. 1. p. 381, 382. Godwin. Catal. of Bish. Edit. 2. p. 328.*

(*q*) *Spelm Concil. p. 382, 383.*

(*r*) *Spelm. Conc. p. 383, 384. Godw. Catal. of Bish. p. 329.*

(*s*) *Spelm. Concil. p. 385, 386.*

Brochuail, with his family convented before a Synode, *threatned Excommunication, enjoyned Penance and ſatisfaction by the Synode*, for ſome injuries offered to to *Cineillianc* the two and twentieth Biſhop of *Landaffe*. * *Mauric* King of of *Glamorgan was excommunicated by* Ioſeph *the eigth and twentieth Biſhop of Landaffe*, for treacherouſly putting out the eyes of *Etguin* during the truce between them; After which he was again *publikely excommunicated* in a Synode, for violating the Sanctuarie of the Church of *Landaffe*, and hurting ſome of this *Biſhops* ſervants; and not abſolved till he made his ſubmiſſion, and did his Penance, and gave ſome lands to the Church for ſatisfaction of theſe offence. Thus (u) *Calgucam* King of *Morganauc*, and his whole family were *ſolemnly excommunicated* by *Herewald* the nine and twentieth *Biſhop* of *Landaffe* in a Synod of all his Clergy, onely becauſe one of the Kings followers being drunk, laid violent hands upon *Bathutis* the Biſhops Phyſitian and Kinſman on *Chriſtmas* day, *Anno* 1056. *Whereupon all the Croſſes and Reliques were caſt to the ground, the Bells overturned, the Church doors ſtopped up with thorns, ſo as they continued without a Paſtor and Divine Service day and night for a long ſeaſon, till the King* (though innocent) *ſubmitted himſelf to the Biſhop*; and to obtain his abſolution, gave *Henringuinna* to him and his Succeſſors for ever, free from all ſecular and royall ſervices, in the preſence of all the Clergie and people. So (x) *Richard* the tenth Biſhop of *Bangor, excommunicated David ap Lhewelin*, Prince of *Wales*, for detaining his brother *Griffith* priſoner, contrarie to his Oath, repairing to him upon the Biſhops word for his ſafe return, who never left vexing him, till he had delivered him up to to the King of *Englands* hands. *Many* ſuch preſidents of Prelates cenſuring and excommunicating their Kings occur in Storie, which for brevity I pretermit; onely I ſhall inform you, that (y) *Iohn Stratford* Archbiſhop of *Canterbury*, in the 14. year of K. *Edw.* 3, conteſting with this King, and excommunicating divers of his followers, and all the infringers of the Churches Liberties, preſumed to write thus unto his Soveraign: *There are two things by which the world is principally governed, The ſacred Pontificall authority, and the royall power, of which the Prieſthood is by ſo much the more weighty, ponderous, and ſublime, by how much they are to give an account of kings themſelves at the Divine audit: And therefore the kings Majeſty ought to know, that you ought to depend on their judgement, not they to be regulated according to your will. For who doubteth that the prieſts of Chriſt are accounted the FATHERS AND MASTERS of Kings, Princes, and all faithfull Chriſtians? Is it not known to be a part of miſerable madneſſe, if the ſon ſhould endeavour to ſubjugate the Father, the ſervant the maſter to himſelf? The Canonicall authority of Scriptures teſtifieth, that divers Pontiffs have excommunicated, ſome of them Kings, others Emperours: And if you require ſomewhat in ſpeciall of the perſons of Princes*; Saint Innocent *ſmote the Emperour* Archadius *with the ſword of excommunication, becauſe he conſented that Saint* John Chryſoſtom *ſhould be violently expelled from his See. Likewiſe* Saint Ambroſe *Archbiſhop of Millain for a fault which ſeemed not ſo hainous to other prieſts, excommunicated the Emperour* Theodoſius *the great: From which ſentence, having firſt given condigne ſatisfation, he afterwards deſerved to be abſolved*; *and many ſuch like examples may be alleaged, both more certain for time, and nearer for place. Therefore no Biſhops whatſoever neither may nor ought to be puniſhed by the ſecular Power, if they chance to offend through humane frailtie: For it is the duty of a good and religious Prince to honour the Prieſts of God, and defend them with greateſt reverence, in imi-*

tation

* *Goduin. Catalog. of Biſh. p. 527.*

(u) *Spelmanlim. Concil. Tom. 1. p. 626, 627. Goduin. Edit. 2. p. 528.*

(x) *Mat. Paris. H. 3. p. 551. 715 Goduin. Catalo. p. 537. 547.*

(y) *Antiqu. Eccleſ. Bul. p. 145. See Walſingh. Hiſt. Angl. p. 138. to 144.*

tation of the Pious Prince of most happy memory, Constantine, *saying, when the cause of Priests was brought before him*, You cannot be iudged by any, *to wit, of the secular iudges*, who are reserved to the iudgement of God alone; *according to the assertion of the Apostle* (very ill applied) *saying, The spirituall man is iudged of no man*, 1 *Corinth.* 2. 15. (Not meant of Bishops or Clergie-men, but Saints alone, endued with Gods Spirit, not of *judging* in courts of iustice, but of *discerning spirituall things*, and their own spirituall Estates, as the Context resolves:) Thus and much more this Prelate, who notwithstanding this text of the *Romanes*, pleads an exemption of all Bishops and Priests from the kings secular power, by Divine Authority, and arrogates to Priest and Prelates, a iudiciary lawfull power over Kings themselves, to excommunicate and censure them for their offences. And to descend to later times, even since the the Reformation of Religion here, *John Bridges* Dean of *Sarum*, and *Bishop of Oxford*, even in his Book intituled, *The supremacy of Christian Princes over all persons thorowout their Dominions, in all causes so well Ecclesiasticall as spirituall*, printed at *London*, 1573. *p.* 1095. writes thus; *But who denies this* (M. *Saunders*) *that a godly Bishop may upon great and urgent occasion, if it shall be necessary to edifie Gods Church, and there be no other remedy, flee to this last censure of Excommunication AGAINST A WICKED KING?* Making it a thing not questionable by our Prelates and Clergie, that they may in such a case lawfully excommunicate the King himself: And Doctor *Bilson* Bishop of *Winchester*, in his *True difference between Christian subiection and unchristian Rebellion*, dedicated to Queen *Elizabeth* her self, printed at *Oxford*, 1595. *Part.* 3. *Page* 369. *to* 378. grants, *That Emperours, Kings and Princes, may in some cases be Excommunicated and kept from the Lords Table by their Bishops*; and grants, *That with Hereticks and Apostates, be* THEY PRINCES *or private men, no Christian Pastor nor people may Communicate*: Neither finde I any Bishop or Court Doctor of the contrary opinion, but all of them readily subscribe hereto. If then not onely the ill Counsellors and Instruments of Kings, but Kings and Emperours themselves, may thus not onely be lawfully, iustly resisted, but actually smitten and excommunicated by their Bishops and Clergy, with the spirituall sword, for their notorious crimes and wickednesses, notwithstanding this inhibition; (which * *Valentinian* the Emperour confessed; and therefore *desired, that such a Bishop should be chosen and elected in Millain after* Auxentius, *as he himself might really and cordially submit to him and his reprehensions, since he must sometimes needs erre as a man, as to the medicine of soules*; as he did to *Ambrose*, when he was elected Bishop there;) why they may not likewise be resisted by their Laity in the precedent cases with the temporall sword, and subjected unto the censures of the whole Kingdoms and Parliaments, transcends my shallow apprehension to conceive, there being as great, if not greater, or the very self-same reason for the lawfulnesse of the one, as of the other. And till our Opposites shall produce a substantiall difference between these cases, or disclaim this their practice and doctrine of the lawfulnesse of excommunicating Kings and Emperours, they must give me and others liberty to conceive, they have quite lost and yeelded up the cause they now contend for, notwithstanding this chief Text of *Romanes* 13. the ground of all their strength at first, but now of their ruine.

* *Theod. Eccles. Hist.* 1, 4. c. 5, 6.

Object. 10.

The tenth (x) *Objection* is this, that of 1 *Pet.* 2, 13, 14, 15, 16. *Submit your selves to every ORDINANCE OF MAN for the Lords sake, whether it be to*

(x) *Dr. Fern Sect.* 2. *Appeal to thy Conscience.*

THE-

The King AS SVPREAME, or unto Governours, as unto them that are sent by him (to wit, by God, not the King, as the distribution manifests, and Rom. 13. 1, 2, 3, 4.) For the punishment of evill doers, and for the praise of them that doe well, &c. Feare God, Honour the King; wee must submit to Kings and honour Kings, who are the supream Governours; therefore we may in no case forcibly resist them or their Officers, though they degenerate into Tyrants.

Answ. To which I answer; that this is a meer inconsequent; since the submission here injoyned is but to such *Kings, who are punishers of evill doers, and praisers of those that do well*; which the Apostle makes the Ground and motive to submission; therefore this text extends not to Tyrants and oppressors, who doe quite contrary. We must submit to Kings when they rule well and justly, is all the Apostle here affirms; Ergo wee must submit to, and not resist them in any their violent courses to subvert Religion, Lawes, Liberties; is meer non-sence both in Law, Divinity, and common Reason.

Reply. If any reply, as they doe, that the Apostle, vers. 18, 19, 20. *Bids servants be subject to their Masters with all feare, not onely to the good and gentle, but also to the froward: For this is thank-worthy, if a man for conscience towards God endure griefe suffering wrongfully, &c.* Ergo this is meant of evill Magistrates and *Kings*, as well as good. *Answ.* I answer 1. That the Apostles speaks it onely of evill Masters not Kings; of servants, not subjects; there being a great difference between servants, Apprentices, Villaines, and free-borne subiects, as all men know, the one being under the arbitrary rule and government of their Masters; the other only under the just, setled, legall Government of their Princes, according to the Lawes of the Realme: Secondly, this is meant onely of private personall iniuries, and undue corrections of Masters given to servants without iust cause, as *vers.* 20. *For what glory is it, if when yee be BVFFETED FOR your faults, &c.* intimates: not of publike iniuries and oppressions of Magistrates, which indanger the whole Church and State. A Christian servant or subiect must patiently endure private* undue corrections of a froward Master or King: Ergo whole Kingdomes and Parliaments, must patiently without resistance suffer their kings and evill Instruments to subvert Religion, Lawes, Liberties, Realms, (the proper deduction heen) is but a ridiculous conclusion.

* *See Heb. 12. 10. Matth. 5. 39, 40.*

Secondly, This Text enjoynes no more subjection to kings, then to any other *Magistrates*; as the words: *Submit your selves TO EVERY ORDINANCE of Man; Or unto Governors, &c.* prove past all contradiction; And vers 6. which bids us, *Honour the King*; bids us first in direct tearmes, *HONOVR ALL MEN*; to wit, *All Magistrates* at least, if not all men in generall, as such: There is then no speciall Prerogative of irresistability given to kings by this Text in injurious violent courses, more then there is to any other *Magistrate* or person whatsoever; God giving no man any Authority to injure others without resistance, especially if they assault their persons or invade their Estates to ruine them: Since then inferiour Officers, and other men may be forcibly resisted when they actually attempt by force to ruine Religion, Lawes, Liberties, the republike, as I have proved, and our Antagonists must grant; by the self-same reason kings may be resisted too, notwithstanding any thing in this Text, which attributes no more irresistability or authority to Kings, then unto other Magistrates.

Thirdly,

Thirdly, Kings are here expressly called; AN ORDINANCE OF MAN, not God; as I have formerly proved them to be. If so; I then appeal to the consciences of our fiercest Antagonists, whether they do believe in their consciences, or dare take their Oathes upon it; That ever any people or Nation in the world, or our Ancestors at first, did appoint any Kings or Governours over them, to subvert Religion, Laws, Liberties; or intend to give them such an unlimited uncontroulable Soveraignty over them, as not to provide for their own safety, or not to take up Arms against them, for the necessary defence of their Laws, Liberties, Religion, Persons, States, under pain of high Treason, or eternall damnation, in case they should degenerate into Tyrants, and undertake any such wicked destructive designe. If not (as none can without madnesse and impudence averre the contrary, it being against all common sence and reason, that any man or Nation should so absolutely, irresistably inslave themselves and their Posterities to the very lusts and exorbitancies of Tyrants, and such a thing as no man, no Nation in their right sences, were they at this day to erect a most absolute Monarchie, would condescend to;) then clearly the Apostle here confirming onely the *Ordinances of men*, and giving no Kings nor Rulers any other or greater power then men had formerly granted them (for that had been to alter, not approve their humane Ordinances) I shall infallibly thence inferre; That whole States, and Subjects, may with safe conscience resist the unjust violence of their Kings in the foresaid cases, because they never gave them any authority irresistably to act them, nor yet devested themselves (much lesse their posterity whom they could not eternally inslave) of the right, the power of resisting them in such cases; whom they might justly resist before, whiles they were private men, and as to which illegall proceedings they continue private persons still, since they have no legall power given them by the people to authorize any such exorbitances.

Fourthly, The subjection here enjoyned, is not passive, but active, witnesse *ver.* 15. *For so is the will of God, that by* WELL DOING (to wit, by your actuall cheerfull *submission to every Ordinance of man for the Lords sake, &c.*) *you put to silence the ignorance of foolish men: as free, and not using your liberty &c.* If then this Text be meant of active, not passive obedience; then it can be intended onely of lawfull Kings, of Magistrates in their just commands, whom we must actually obey; not of Tyrants and Oppressours in their unjust wicked proceedings, whom we are bound in such cases actually to disobey, as our Antagonists grant, and I have largely evidenced elsewhere: Wherefore, it directly commands resistance, not subjection in such cases; since actuall disobedience to unjust commands, is actuall resisting of them. And that these Texts prescribing resistance tacitely, should apparantly prohibit it under pain of Treason, Rebellion, Damnation, is a Paradox to me.

Fifthly, This Text doth no way prove that false conceit of most, who hence conclude: That all Kings are the Supream Powers, and above their Parliaments, and whole Kingdoms, even by Divine institution: There is no such thing, nor shadow of it in the Text.

For first, This Text calls Kings, not a Divine, but *Humane Ordinance*; If then Kings be the Supreamest Power, and above their Parliaments, Kingdoms, it is not by any Divine Right, but by *Humane Ordination* onely, as the Text resolves. I.

Secondly, This Text prescribes not any Divine Law to all or any particular States; II.

nor gives any other Divine or Civill Authority to Kings and Magiſtrates in any State then what they had before; for if it ſhould give Kings greater Authority and Prerogatives then their people at firſt allotted them, it ſhould alter and invade the ſettled Government of all States, contrary to the Apoſtles ſcope, which was to leave them as they were, or ſhould be ſettled by the peoples joynt conſent: It doth not ſay, *That all Kings in all Kingdoms are, or ought to be Supreame; or let them be ſo henceforth:* no ſuch inference appears therein. It ſpeaks not what Kings ought to be in point of Power; but onely takes them as they are, (according to that of *Rom.*13.2. *The Powers that A R E, &c.* to wit, that are, even now every where in being, not which ought to be, or ſhall be) whence he ſaith; *Submit to the King as ſupreame:* that is; where by the Ordinance of man the King is made ſupreame; not, where Kings are not the ſupreameſt Power; as they were not among the (*a*) ancient *Lacedemonians, Indians, Carthaginians, Gothes, Aragonians*, and in moſt other Kingdoms, as I have (*b*) *elſewhere* proved: To argue therefore, We muſt ſubmit to Kings where the people have made them ſupreame; *Ergo*, All Kings every where are and ought to be ſupreame *jure divino*; (as our *Antagoniſts* hence inferre) is a groſſe abſurdity.

(a) *See Bodin* Common-weal *l.*1.*c.*10 *l.*2.*c.*5. *Hugo Grotius de jure Belli.l.*1.*c.*3. *ſect.*8 *to.* 3. *& Annotata.*

(b) *Part.*1.*& in the Appeadix.*

III. Thirdly, This Text doth not ſay, That the King is the ſupreame ſoveraigne Power, as moſt miſtake; but *ſupreame Governour*, as the next words; or *Governours, &c.* expound it; and the very *Oath of Supremacie*, 1. *Eliz. Cap.* 1. which gives our Kings this Title, *Supreame Governour within theſe his Realms.* Now Kings may be properly called Supreame Magiſtrates or Governours in their Realms, in reſpect of the actuall adminiſtration of government and juſtice, (all Magiſtrates deriving their Commiſſions immediately from them, and doing juſtice, for, and under them:) and yet not be the Soveraign Power, as the *Romane Emperours*, the *Kings of Sparta*, *Arragon*, and others; the *German Emperours*, the *Dukes of Venice* in that State, and the *Prince of Orange* in the *Nether-lands*, were and are the *Supreame Magiſtrates, Governours*; but not the *Supreame Soveraigne Powers*; their whole *States, Senates, Parliaments, being the Supreameſt Powers, and above them*; which being Courts of State, of Juſtice, and a compound body of many members, not alwayes conſtantly ſitting, may properly be ſtiled, The *Supreame Courts and Powers*; but not the *Supreame Magiſtrate* or *Governour*: As the *Pope* holds himſelf, the *Supreame Head and Governour of the Militant Church*; and the *Arch-Biſhop of Canterbury* ſtiles himſelf, the *Primate and Metropolitane of all England*; and ſo other Prelates in their Provinces; yet they are not the *Soveraigne Eccleſiaſticall Power*, for the King, at leaſt *Generall Councells* or *Nationall Synods* (which are not properly tearmed *Governours*, but *Powers*) are *Paramount* them, *and may lawfully cenſure or depoſe them*, as I have (*d*) *elſewhere* manifeſted. To argue therefore, that Kings are the higheſt Soveraign Power, becauſe they are the higheſt particular Governours and Magiſtrates in their Realms, as our Antagoniſts do; is a meer Fallacie, and Inconſequent, ſince I have proved (*e*) *our own, and moſt other Kings, not to be the higheſt Powers, though they be the Supreameſt Governours.*

(c) *Bodin.* Common-weal *l.*2.*c.*5 *l.*1.*c.*10.

(d) *Part.*1.*p.*88.

(e) *Par.*1.*& the Appendix.*

IIII. Fourthly, This Text ſpeaks not at all of the Romane Emperour, neither is it meant of him, as Doctour *Fern*, with others miſtake; who is never in Scripture ſtiled a King, being a Title extreamly *odious to the Romanes*, and for *ever baniſhed*

their

their State with an (f) Oath of execration, by an ancient Law, in memory whereof they instituted a speciall annuall Feast on the 23. of February, called, (g) Regifugium; the hatred of which Title continued such, that Tully (b) and Augustine write; Regem Romæ postbac, nec Dii nec Homines esse patiuntur: And (i) Cæsar himself being saluted King by the multitude, perceiving it was very displeasfull to the States, answered, CÆSAREAM SE, NON REGEM ESSE: which Title of Cæsar, (not King) the Scripture ever useth to expresse the Emperour by: witnesse Matth. 22. 17, 21. Mark 12. 14, 16, 17. Luke 2. 1. chap. 20. 22, 24, 25. chap. 23. 2. John 19. 12, 15. Acts 11. 28. chap. 17. 7. chap. 25. 8, 10, 11, 12, 21. chap. 26. 32. chap. 27. 24. chap. 28. 19. Phil. 4. 22. Which Texts do clearly manifest, that no Title was ever used by the Apostles, Evangelists, Jewes, to expresse the Emperour by, but that of Cæsar, not this of King. Therefore Peters Text, speaking onely of the King, not Cæsar, cannot be intended of the Romane Emperour, as ignorant Doctors blindly fancie.

(f) Liv. Hist. l. 1. See the Appendix. p 3 4.
(g) Macrob. Saturnal. l. 1 c. 13. Seldens Titles of honour part. 1. c. 2. sect. 2. p. 13.
(h) Aug. de Civ. Dei. l. 2.
(i) Selden. ibid. Plutarchi, Julius Cæsar, Eutropius. Grimston in his life.

Fifthly, This Epistle of Peter (the (k) Apostle of the Jews) was written onely to the dispersed Jews thorowout Pontus, Galatia, Cappadocia, Asia, and Bythinia, 1 Pet. 1. 1. over whom Herod at that time reigned as King, by the Romane Senates and Emperours appointment, who had then conquered the Jews, and made them a tributarie Province; as is evident by Matth. 27. 17, 21. Mark 12. 14, 16, 17. Luke 20. 22, 24, 25. chap. 23. 2. Acts 17. 7. chap. 25. 8, 10, 11, 12, 21. chap. 27. 24. chap. 12. 1. to 24. compared together; and by (l) Josephus, the Century writers, Baronius, Sigonius, and others. The King then here mentioned to be supreame, was Herod, or King Agrippa, or some other immediate (m) King of the Jews, who was their supreame Governour, not absolutely, but (n) under the Romane Senate and Emperours, and made so by their appointment, whence called in the Text; an Ordinance of man, not God: Now this King of the Jews (as is evident by Pauls Appeal to Cæsar from Festus and King Agrippa, as to the Soveraign Tribunall; Acts 25. and 26. by Josephus, Philo Judæus de legatione ad Caium, and the consent of all Historians) was not the absolute Soveraigne Power, but subordinate to the Romane Emperour and Senate, (o) who both created, and had power to controll, remove, and censure him for his misdemeanours; yet Peter calls him here Supreame, because the Highest Governour under them, as we stile our Kings (p) Supreame Governours under Christ. Therefore having a Superiour Governour and Power over him, to which he was accountable and subordinate; Supreame in the Text, cannot be meant, of a King absolutely Supreame, having no Power Superiour to him, but God; but onely relatively Supreame, in respect of under-Governours, there actually residing: whose Supremacie being forcibly gained onely by conquest, not free consent; (and the ancient native * Kings of the Jews, being inferiour to their whole Senates and Congregations, and to do all by their advice, as Josephus Antiq. Jud. lib. 4. cap. 8. 2. Sam. 18. 3, 4. Jer. 38. 45. 1. Chron. 13. 1. to 6. attest) will no way advantage our Opposites, nor advance the Prerogative of Kings; since it extends onely to the King of the Jews that then was, who was not simply Supream, but a Subject Prince subordinate to the Romane State and Empire, and one appointed by a Conquerour, not freely chosen and assented to by the people. So as all the Argument which can hence be extracted for the absolute Soveraigntie and irresistibility of Kings over their whole Kingdomes and Parliaments, is but this. The King of the Jews was

V.

(k) Gal. 2. 7. 8.

(l) Ant. Iud. l. 17. c. 12. l. 18 c. 1. l. 20 c. 9. & De Bel. Iud. l. 1.
(m) Mar. 3 1. c. 27. 11. Act 25. 13. 24. 26 c. 26. 2. c. 12. 1.
(n) Ant. Iud. l. 13. to 20. John 19. 12.
(o) Ios. de Bel. Iud l. 1 c. 10. 11. 12. 15.
(p) See the Appendix.

* Schickardus jus Regnum. Heb. f. 7. Cuneus de Rep. Hebr. 191 166.

in *Peters* time the Supreame Magistrate over that *Nation*, by the Romane Senates and Emperours appointment, to whom yet he was subordinate and accountable; the *Romanes* having conquered the *Jewes* by force, and imposing this government upon them, without their consents. Therefore the Kings of *England*, and all other Kings are absolute Soveraigne Monarches, Superiour to their whole Parliaments and Kingdomes, collectively considered; and may not in point of conscience be forcibly resisted by them, though they endeavour to subvert Religion, Laws, Liberties: How little coherence there is in this Argument, the silliest childe may at first discern.

Objection 11. (x) *Bodin l.2.c.5 Bilson. part.* 3. *An appeal to thy conscience, and many others.*

From these Scriptures, I descend to Reasons deduced from them, against resistance, which I shall contract into three Arguments: The first is this; (x) Kings are the Fathers, Heads, Lords, Shepherds *of the Common-wealth*; *Ergo*, They ought not to be resisted in any their exorbitant proceedings; it being unlawfull, unseemly, for a Son to resist his Father; the Members the Head; the Vassals their Lord; *the Flock their* Shepherd.

Answer 1. (y) 2 Sam.24. 17. Isa 49.23 Ps 78 72 73. 74. Isa.40.11. c. 32.2. Ezek. 34 2. to 18. Joh.10.9.to19. (z) Ezek 22.27 Zep 3.3 Mat.7 15. Act.20 29.

To this I answer: First, They are Fathers, Shepherds, Lords, Heads, onely in an improper, allegoricall, not genuine sence; therefore nothing can thence be properly inferred: They are and ought to be such in respect of their (y) loving and carefull affection *towards their Subjects*; not in regard of their Soveraigne Power over them: Therefore when their Tyrannie makes them not such, in regard of care and affection to their people; their people cease to be such, in regard of filiall, naturall, and sheep-like submission: When these *Shepherds* turn (z) *Wolves*; these *Fathers*, *Step-fathers*; the Subjects, as to this, cease to be their *Sheep*, their *Children*, in point of *Obedience* and *Submission*.

2. * 1 Pet.2 13. (a) Rom.13.6.

Secondly, If we consider the Common-weal and Kingdom collectively; Kings are rather their *Kingdoms children* then *Parents*, because * *created by them*, their *publike servants*, *ministers*, for whose *benefit they are imployed, and receive* (a) *wages*; not their Soveraigne Lords; their subordinate Heads, to be directed and advised by them, not Tyrannically to over-rule them at their pleasure: Therefore Paramount, and able in such cases to resist them.

3. (b) 2 John 10. 11 (c) *Littleton.sect* 194 *& Coke Ib. p* 1.6 (d) *See 4 Ed. Gen. de Iur. Bel. l.* 1. *c.*15.16.

Thirdly, Parishioners may, no doubt, lawfully resist the (b) *false Doctrines* and open assaults of their *Ministers*, though they be their *Spirituall Shepherds*: *Citizens* the violent oppressions of their *Maiors*, though they be their Politique Heads: Servants the unjust assaults of their Masters, though their lawfull Lords; (*who may* (c) *not misuse their very Villaines, by Law*:) And if Parents will violently assault their naturall children, Husbands their Wives, Masters their Servants, to *murther* them without cause, they may (d) *by Law* resist, repulse them with open force.

4.

Fourthly, A Son who is a Judge, may lawfully resist, imprison, condemne his naturall Father; A Servant, his Lord; A Parishioner his Pastour; a Citizen his Major; a meer Gentleman, the greatest Peer or Lord, as experience proves; because they do it in another capacity, as Judges and Ministers of publike Justice, to which all are subject. The Parliament then in this sence, as they are the representative Body of the Realm, not private Subjects, (and their Armies by their authority) may, as they are the highest Soveraign Power and Judicature, resist the King and his Forces, though he be their Father, Head, Shepherd, Lord, as they are private men.

Fifthly,

Fifthly, This is but the common exploded Argument of the Popish Clergy, *To prove themselves superiour to Kings, and exempt from all secular Jurisdiction, because they are spirituall Fathers, Pastors, Heads to Kings; Who ought to obey, not judge, and censure them,* as (*) Archbish. *Stratford,* and others argue. But this plea is no ways available to exempt Clergy men from secular Jurisdiction; from actuall resistance of parties assaulted, nor yet from imprisonment, censures, and capitall executions by Kings and Civill Magistrates, in case of capitall Crimes; Therefore by like reason it can not exempt Kings from the resistance, censures of their Parliaments, Kingdoms, in case of tyrannicall invasions. We deride this Argument in Papists as absurd, as insufficient to prove the exemption of Clergy men: I wonder therefore why it is now urged to as little purpose, against resistance of Tyrants, and oppressing Kings and Magistrates.

(*) *Antiq Eccles. Brit.* p 245.

The second reason is this, (*f*) The Invasions and oppressions of evill Kings and Tyrants, are afflictions and punishments inflicted on us by God: Therefore we ought patiently to submit unto them, and not forcibly to resist them.

Object. 12.

(*f*) Appeal to thy conscience, and others.

I answer; First, The invasions of Forraign Enemies are (*g*) *just Judgements,* and punishments sent upon men by God; as were the invasions of the (*h*) *Danes, Saxons* and *Normans* in *England*, heretofore; of the *Spaniards* since. *Ergo,* we ought not to resist or fight against them. The present rebellion of the Papists in *Ireland* is a just punishment of God upon this Kingdom and the Protestant party there; *Ergo,* Neither we, nor they ought in conscience to resist or take Arms against them. Every sickness that threatens or invades our bodies, is commonly an affliction and punishment sent by God: *Ergo,* We must not endeavour to prevent or remove it by Physick, but patiently lye under it without seeking remedy. Injuries done us in our persons, estates, names, by wicked men, who assault, wound, rob, defame us, are from (*h*) God, and punishments for our sins: *Ergo,* We may not resist them: Yea, Subjects *Rebellions, Treasons, and Insurrections,* against their Princes many times, *are punishments inflicted on them by God, displeased with them,* as the Statute of 1 *Ed.*6. *c.*12. resolves, *and the* (*i*) *Scripture too: Ergo,* Kings ought not to resist or suppresse them by force of Arms; If all these Consequences be absurd, and idle, as every man will grant, the objection must be so likewise.

Answ.

(*g*) See 1 Kin. 11. 14. to 41. 2 Chro. 33. 11. ca. 35. 1. to 21. Isai. 10. 6.

(*h*) See *Gildas de Excidio Brit. Matthew West. Malmsbury, Huntingdon,* and all our Chroniclers.

(*h*) 2 Sam 16. 10, 11, 12.

(*i*) 1 King cap. 11. & 12.

I read, *That in the* * *persecution of the* Hunnes, *their King* Attila *being demanded of by a religious Bishop, of a certain Citie? who he Was? when he had answered;* I am *Attila,* the scourge of God: *The Bishop reverencing the divine Majesty in him; answered, Thou art Welcome ô Minister of God; and ingeminating this saying,* Blessed be he that cometh in the Name of the Lord, *Open I the Church door, and let in the persecutor, by Whom he obtained the Crown of Martyrdom, not daring to exclude the scourge of the Lord; knowing, that the beloved sonne is scourged, and that the power of the scourge it self is not from any, but God.* Will it hence follow? That all Christians are bound in conscience to do the like, and not to resist the barbarous Turks, if they should invade them; no more then this Bishop did the bloudy Pagan *Hunnes,* because they are Gods wrath? I trow not. One Swallow makes no Summer; nor this example, a generall president to binde all men.

* *Joan. Carnot. lib.* 4 *Fulgent. c* 1. *& Bochul. las Decreta, Eccles. Gal. l.* 5. *Tit* 1. *ca.* 6. *p.* 697.

The third reason is this, Saints forcible resistance of Tyrants, *begets civill warres,* *Object.* 13.

(k) Dr. Ferne, Sect. 3, 4. and others.

great diſorders, and (k) *many miſchiefs in the State: Ergo,* It is unlawfull, and inconvenient.

Anſw.

I anſwer, Firſt, That this doctrine of not reſiſting Tyrants in any caſe, is farre more pernicious, deſtructive to the Realm then the contrary; becauſe it deprives them of all humane means, and poſſibilities of preſervation; and denies them that ſpeciall remedy which God and nature hath left them for their preſervation: Laws, denyall of Subſidies, and ſuch like remedies preſcribed by Doctor *Ferne*, being no remoraes or reſtraints at all to armed Tyrants; Wherefore I muſt tell thee *Doctor, Theologorum utcunque diſſertiſſimorum ſententiæ, in hac controverſia non ſunt multo faciendæ, quia quid ſit Lex humana ipſi ignorant*, as *Vaſquius controverſ. Illuſtr.* 81. .11. determines.

Secondly, The knowledge of a lawfull power in Subjects to reſiſt Tyrants, will be a good means to keep Princes from Tyrannicall courſes, for fear of ſtrenuous reſiſtance; which if once taken away, there is no humane bridle left to ſtay the Inundation of Tyranny in Princes or great Officers; and all Weapons, Bulwarks, Walls, Lawes, Armes will be meerly uſeleſſe to the Subjects, if reſiſtance be denyed them, when there is ſuch cauſe.

Thirdly, Reſiſtance only in caſes of publike neceſſity, though accompanied with civill warre; ſerves alwayes to prevent farre greater miſchiefs then warre it ſelf can produce, it being the only Antidote to prevent publike ruine, the readieſt means to preſerve endangered, to regaine, or ſettle loſt Liberties, Laws, Religion, as all ages witneſſe; and to * *prevent all future Seditions and Oppreſſions.*

* *Seditiones non facit, ſed tollit qui everſorem Patriæ, publicæque diſciplinæ coercerit*, Vindiciæ. contr. Tyran. p. 145.

Fourthly, Deſperate diſeaſes, have alwayes deſperate remedies, *Malo nodo, malus cuneus:* When nothing but a defenſive warre will preſerve us from ruine and vaſſalage; it is better to imbrace it, then hazard the loſſe of all, without redemption. *Ex duobus malis minimum.* All Kingdoms, States in caſes of neceſſity, have ever had recourſe to this as the leſſer evill; and why not ours as well as others.

Object.

The laſt (and ſtrongeſt Objection as ſome deem it) is the ſayings if ſome Fathers backed with the examples of the primitive Chriſtians, to which no ſuch ſatisfactory anſwer hath hitherto been given, as might be.

Authority 1.

The firſt and grandeſt Objection againſt Subjects forcible reſiſtance, and defenſive warre, is that ſpeech of Saint *Ambroſe, Lib.* 5. *Orat. in Auxentium. Coactus repugnare non audeo: dolere potero, potero flere, potero gemere: adverſus arma, milites, Gothos, Lachrymæ meæ arma ſunt: talia enim ſunt munimenta ſacerdotum:* ALITER NEC DEBEO, NEC POSSUM RESISTERE.

Anſw.

This chiefe Authoritie, though it makes a great noiſe in the world, if ſolidly ſcanned, will prove but *Brutum fulmen*; a meer ſcar-crow and no more.

For firſt, *Ambroſe* in this place ſpeaks not at all of Subjects reſiſting their Princes, or Chriſtians forcible reſiſting of the perſecuting Romane Emperours; but of reſiſting *Valentine*, and the Arms and *Souldiers of the Gothes*, who at that time (*l*) *overran Italy, and ſacked Rome, being mortall Enemies to the Romans, the Roman Emperours*, Saint *Ambroſe*, and *Millain* where he was Biſhop.

(l) See Oroſius, Eutropius, Paulus Diaconus, Grimſton, and others.

This is evident by the expreſſe objected words: *I can grieve, I can weep, I can mourn*, (to wit for the waſting of my native Country *Italy*, by the Invading Enemies

Enemies the *Gothes:*) *against Armes, Souldiers,* GOTHES (marke it) *my tears are Weapons, &c.* If any sequell can be hence properly deduced, it must be that for which the (*m*) *Anabaptists* use it (from whence our *Opposites*, who tax the Parliaments Forces for *Anabaptists*, when themselves are here more truly such, and fight with this their weapon.) *That it is unlawfull for Christians to fight, or make so much as a defensive Warre against invading Forraign barbarous Enemies*, of whom this Father speaks: And then if the *Irish Rebels, Danes, Spaniards, French*, should now invade *England*, both against the Kings and Kingdoms Wills, we must make no forcible resistance at all against them with Arms in point of conscience, but onely use prayers and teares.

(*m*) See *Lucas Osiander Enchir Contr. cap. 9. de Magistratu. polit.*

This is the uttermost conclusion which can properly be hence deduced; which our *Antagonists* will confesse to be at least erronious, Anabaptisticall, if not Hereticall.

Secondly, You must consider who it was that used this speech; *Ambrose*, a *Minister*, then Bishop of *Millain*; who by reason of this his function being an *Ambassadour of Peace*; had his hands bound from fighting with any other weapons, even against invading forraign Enemies, but only with the sword of the spirit, *prayers and tears:* and that his calling only, was the ground of this his speech; is infallible by the latter clause thereof, which our Opposites cunningly conceale. *Prayers are my Armes: For such are the Defensive Armour OF PRIESTS; Otherwise I NEITHER OUGHT NOR CAN RESIST:* Why so? Because he was a Minister, a Bishop; and *Paul* prohibites such to be *STRIKERS, Tit.* 1. 7. 1 *Tim.* 3. 3. and because *Priests under the Law did but blow the Trumpets, and never went out armed to the Warres, Josh.* 6. Upon which ground (*n*) *Divers Councells, Decretalls, Canonists*, expressly prohibit, and exempt *Priests and Bishops, from bearing Arms, or going to Warre*, though many of them have *turned* (*o*) *great Souldiers, and been slain in Warres.*

(*n*) *Gratian Distinct* 5. & *Causa* 23. *qu* 8. *Aquinas.* 2. 2. *qu.* 40. *Artic.* 2. *Silu. de Bello, p* 3. *Grotius de Iur. Belli. l.* 1. *c* 5. *sect.* 4. *n.* 98. *Nicetas Chro. l.* 6.

Hence *Anno* 1267, *in a Parliament held at* Bury, *K.* H. 3d. *and* Ottobon *the Popes Legat*, demanded of all the *Bishops and Clergy men, holding Barronies or Lay-fees, that they should go personally armed against the Kings enemies, or finde so great service in the Kings expedition, as appertained to so much Lands and Tenants.* To which they answered, *That* THEY OUGHT NOT TO FIGHT WITH THE MATERIALL SWORD; (no not against the Kings Enemies) *But With the spirituall; to wit, with humble and devoute tears and prayers,* (using these words of *Ambrose:*) *And that for their benefices they were bound to maintain Peace,* NOT WARRE.

(*o*) See *Walsingham. hist. Angliæ. p.* 312 *to* 330.

Hence our King (*p*) *Richard the first, taking the Bishop of* Beauvoyes *in* France, *his great Enemy, armed from top to toe, prisoner in the field; commanded him to be strictly kept in prison in his arms, and would by no means suffer him to put them off: for which hard usuage he complained to the Pope, and procured his letter to King* Richard *to free him from his arms and restraint; in which Letter, the Pope sharply reproves the Bishop for preferring the secular warfare before the spirituall, in that he had taken a Speare insteed of a Crosier; an Helmet in liew of a Miter; an Habergion insteed of a white Rochet; a Target in place of a Stole; an Iron-sword, insteed of a spirituall sword.* After which, the King sent his Arms with this Message to the Pope: *See whether this be thy sonnes Coat or not?* Which the Pope beholding, answered: *No*

(*p*) *Contin Mat. Paris, p.* 971.

(*q*) *Roger de Hoved. Annal. pars post. p.* 763. *to* 778. *Neubrigensis, hist. l.* 5. *c* 21.

by

by Saint Peter, *It is neither the apparell of my sonnes, nor yet of my Brethren, but rather the vesture of the sonnes of* Mars. And upon this ground (r) *Our Bishops anciently, when Members of Parliament, departed the house when Cases of Treason or Felony came in question, because they might not by the Canons, have their hands in bloud.*

(r) *Antiqu: Eccles.* Brit. p. 299 300. 10. E 4. 6. *Stamford, f.* 173

This then being *Ambrose* his direct words and meaning, That he neither *ought, nor could use any other Weapons against the invading Gothes, and their forces, but prayers and tears*; **because he was a Minister, a Bishop, not a Lay-man*; The genvine Argument that our opposites can thence extract, is but this. Priests must use no other Defensive Arms, but prayers and tears, against invading forraign Enemies. *Ergo,* The Priests and Ministers in his Majesties Armies, who bear Offensive Arms, must now in conscience lay them down, and use no other resistance, but prayers and tears against the Parliaments forces: where as their former inference against resistance: *Ergo,* It is altogether unlawfull for the Parliament, or any Lay-Subjects by their command, to defend Religion, Laws, Liberties, against his Majesties invading forces, who intend by force to subvert them; is but ridiculous nonsence, which never once entred into this Fathers thoughts, and can never be extorted from his words.

* See *Io: Maior* in 4. *Sent. Dist.* 15.

Ministers of the Gospel must not use any Arms, but prayers and tears to resist a forraigne Enemy: *Ergo,* None else may lawfully use them to withstand an invading adversary; is a conclusion fitter for *Anabaptists* then *Royallists*, who may now with shame enough, for ever bid this authority adieu; with which they have hitherto gulled the ignorant World: And henceforth turn it against the Commission of *Array*, enjoyning *Bishops, and Clergy men, to array and arme themselves as well as other men,* as the Presidents cited in *Judge Cooke* his Argument against Ship-money; in the Parliaments two Declarations against the Commission of *Array*; and in the Answer published in the Kings name, to the first of them, plentifully evidence.

3 Finally, Hence I infer, That Clergy men may, and must fight against their invading Enemies with prayers, tears, the Weapons which they may lawfully use as proper for their callings. *Ergo,* Lay-men may, and must resist, and fight against them with corporall Arms, since they are as proper for them in cases of needfull defence, as these spirituall Arms are for Priests.

Authority 2. (f) An appeal to thy conscience. p. 28. *Grotius de Iure Belli, l.* 1. *c.* 4. *sect* 4. *p.* 83.

The second Authority is that of (f) *Nazianzen.* Oratio. 2. in Julianum. *Repressus of Julianus Christianorum lachrymis, quas multas multi profuderunt: HOC VNUM* or *Solum* (as *Grotius* translates it) *adversus persecutionem medicamentum habentes:* To which I shall adde by way of supply this other passage. *Nos autem; quibus NULLA ALIA ARMA, nec muri, nec præsidia, præter spem in Deum, reliqua erant: Utpote OMNI HVMANO SUBSIDIO PRORSUS DESTITUTIS ET SPOLIATIS, quem tandem alium aut precum auditorem, aut inimicorum depulsorem habituri eramus, quam Deum Jacob, qui adversus superbiam jurat.* From whence they conclude, that Christians must use no other weapons but prayers and tears, against Tyrants and oppressors.

From

To which I answer. First, that it is cleare by this, that Christians may use prayers and teares against Tyrants and oppressors. *Answ.* 1.

Secondly, that these are the most powerfull prevailing Armes both to resist and conquer them. This the opposites readily grant. Therefore by their own confession, Christians both may and must resist tyrants by the most powerful & effectual means that are. Tyrants therefore are not the higher Powers, Kings, Rulers, which *Paul* and *Peter* in the fore-objected texts, enjoyne *men under paine of damnation to be subject and obedient to for conscience sake, and no waies to resist*; since they may resist them with the powerfullest armes of all others, prayers and teares. 2.

Thirdly, if they may be lawfully resisted with these most prevailing armes notwithstanding *Pauls & Peters* objected inhibitions, then *à fortiori* they may be with corporall, which are lesse noxious and prevalent; he that may with most successeful meanes resist, vanquish, and overcome his tyrannizing oppressing Soveraigne, may likewise doe it by the lesse noxious Armes. If Christians may repulse and subdue a Tyrant with their Prayers, Teares, then why not with their Swords? Doth God or the Scripture make any such distinction, that we may and must resist them under paine of damnation, with these kind of weapons; and shall it be no lesse then *Treason, Rebellion, Damnation* to resist them with the other? what difference is there in point of *Allegiance, Loyalty, Treason, Conscience*, to resist an oppressing tyrannizing Prince and his Forces with a *Praier*, or with a *Sword*? with a *Teare*, or with a *Speare*? Are they not all one in substance? By the Statutes of 26 *H.*8.*c.*13. 1 *E.*6.*c.*14. 5 *E.*6. *c.*11. 1 *Eliz.c.* 6. 13 *Eliz.c.*1. words against the King delivered even in *Preaching, are made and declared to be high Treason*, as wel as *bearing Armes*, and striking *blowes*; *yea, the Statute of* 1 & 2 Ph. & Ma. *c.* 9. *makes certaine prayers against this persecuting Queen, high Treason*; and by the Statute of 25 E.3.*c.*2. it is high Treason for any man *to* COMPASSE OR IMAGIN *the death of the King, Queen, Prince*, as wel as to *slay or leavy warre against them*. If then we may, by the Objectors confession, the practises and examples of the Primitive Christians, against *Iulian* and others, fight with our *Tongues, Prayers, Teares, Imaginations* against our Soveraignes, who turne Tyrants and Persecutors; and thereby suppresse, conquer, confound them, of which none make scruple, though our *Statutes* make it no lesse then *high Treason* in some cases; then questionlesse they may by the selfe same reason and ground, resist them with open force, notwithstanding any inhibition in Scripture. We may not, must not resist any lawful King or Magistrate in the just execution of his office, so much as with a repugnant wil, thought, prayer, teare: we may, yea must resist an oppressing, persecuting Tyrant with all these; therefore with any other Armes, meanes (*v*). *Hezekiah, David, Moses, Abijah, Asa*, resisted their *invading enemies, and conquered them with their prayers; but yet they provided to repulse and vanquish them with other externall Armes.* The Christians resistance and vanquishing their Emperour *Iulian* with the one, is an infallible argument, they might doe it with the other too, there being no such distinction in the objected Scriptures, that we may fight against and resist them with our prayers, teares, not armes. 3.

(*t*) The Christians then stiled *Iulian, Idolianus, Pigeus, Adonæus, Tauricremus, alter Hieroboam, Achab, Pharao, &c. Nazianzen, Orat* 47. *&* 48. *in Iulianum.*

(*v*) *Exodus, Samuel, Kings, Chronicles, Numbers, Iudges* and the Booke of Psalmes every where almost.

Fourthly, this Father saith not, that it was unlawful for the Christians to use any other weapons but teares against *Iulian*, the onely thing in question. No such syllable in the Oration, but onely, *that they had no other Armes to resist and conquer him with, being utterly destitute and spoyled of all other humane helpe.* Therefore their 4.

* See Zozimen. l. 5. c. 2. Non Gentiles ſolum, &c.

want of other Armes and helpe,* not the unlawfulneſſe of uſing them, had they had them, was the onely ground they uſed *prayers* and *teares*, not armes. To argue then, thoſe who are deſtitute of all Armes, but prayers and teares, muſt uſe them onely: *Ergo* thoſe who have other Armes beſides prayers and teares, may not lawfully uſe them to reſiſt a Tyrant, is but Scholaſtical Nonſence; yet this is the very uttermoſt this authority yeelds our oppoſites. In one word, this Father informes us, that this Apoſtate Emperour (x) *Iulian*, would *not make open warre at firſt upon the Chriſtians, becauſe this would altogether croſſe the end he aimed at*: (marke the reaſon) *Nos enim, ſi vis inferatur, acriores obſtinatioreſque futuros, ac tyrannidi obnixum pietatis* TUENDÆ STUDIUM OBJECTUROS *cogitavit. Solent enim fortes & generoſi animi, ei* QUI VIM AFFERRE PARAT CONTUMACITER OBSISTERE, *non ſecus ac flamma, quæ a vento excitatur, quo vehementius perflatur, eo vehementius accenditur.* Which argues, that the Chriſtians would have forcibly reſiſted him, had he at firſt with force invaded them; therefore he weakened, ſubdued, diſarmed them firſt by policy; and then fell to perſecute them with force, when they had no meanes of reſiſtance left.

(x) Oratio. 1. in Iulianum p. 760.

Authority 3. (y) Appeale to thy conſcience, p. 28, 29.

The third authority is that of (y) *Bernard*, Epiſt. 221. to King *Lewis* of *France*, *Quicquid vobis de Regno veſtro, de animâ & coronâ veſtrâ facere placeat*, NOS ECCLESIÆ FILII, *matris injurias, contemptum, & conculcationem omnino diſſimulare non poſſumus. Profecto* STABIMUS ET PUGNABIMUS USQUE AD MORTEM (*ſi ita oportuerit*) *pro matre noſtrâ* ARMIS QUIBUS LICET, *non ſcutis & gladiis*, SED PRECIBUS ET FLETIBUS AD DEUM. Therefore it is unlawfull for Chriſtians to reſiſt with force of Armes.

Anſw. 1.

I anſwer firſt, that *Bernard* was both a *Monke* and *Clergie-man*, prohibited by *Scripture* and ſundry *Canons to fight with military Armes againſt any perſon or enemy whatſoever*; and he utters theſe words of himſelfe, as he was a *Clergie-man, ſervant, and ſonne of the Church*; in the ſelfeſame ſence as Saint *Ambroſe* did before. It was then onely his Calling, not the cauſe which prohibited him forcibly to reſiſt King *Lewis*.

2.

Secondly I anſwer, that this authority is ſo farre from prohibiting reſiſtance of oppreſſing Princes, endeavouring with force of Armes to ſubvert Liberties, Lawes, Religion; that it is an unanſwerable proofe for it, even in our preſent caſe: King *Lewis* to whom *Bernard* writes, had then raiſed a civil warre in his Realme againſt *Theobald* and others who *deſired peace*; which the King rejecting, *Bernard* doth thus reprehend him in the premiſſes. *Verum vos nec verba pacis recipitis; nec pacta veſtra tenetis, nec ſanis conſiliis acquieſcitis. Sed neſcio quo Dei judicio, omnia vobis ita vertitis in perverſum, ut probra honorem, honorem probra ducatis; tuta timeatis, timenda contemnatis; & quod olim ſancto & glorioſo Regi David, Ioab, legitur exprobraſſe; diligitis eos qui vos oderunt, & odio habetis qui vos diligere volunt. Neque enim qui vos inſtigant priorem iterare maliciam adverſus non merentem, quærunt in hoc honorem veſtrum, ſed ſuum commodum, imò nec ſuum commodum,* SED DIABOLI VOLUNTATEM; *ut Regis (quod abſit) potentiam concepti furoris habeant effectricem; quem ſuis ſe poſſe adimplere viribus non confidunt;* INIMICI CORONÆ VESTRÆ, REGNI MANIFESTISSIMI PERTURBATORES. (Our preſent caſe, in regard of the Kings evil ſeduding

Note.

ling Counsellors.) Then immediately followes the objected clause, *At quicquid vobis, &c.* After which he gives him this sharpe reproofe. *Non tacebo quod cum excommunicatis iterare fœdus & societatem nunc satagis, quod in necem hominum, combustionem domorum, destructionem Ecclesiarum, dispersionem pauperum, raptoribus, predonibus (sicut dicitur, adhæretis; juxta illud Prophetæ (z) si videbas furem currebas cum eo, &c. quasi non satis per vos mala facere valeatis. Dico vobis, non erit diu inultum, si hæc ita facere pergitis, &c.* Here this holy man prohibited by his orders to fight against this King, his Soveraigne with his Sword; fights strongly against and resists his violence with his Penne. And although he may not use a Sword and Buckler in respect of his calling to defend his mother the Church against him: yet he is so farre from yeelding obedience to and not resisting him, according to *Pauls* and *Peters* pretended injunctions, that he expresly tels him to his face, *That* HE WOULD STAND AND FIGHT AGAINST HIM EVEN UNTO DEATH (if there were need) *with such weapons as he (being a Monk and Minister) might use, to wit, with Prayers and teares, though not with Sword and Buckler*; which were more prevalent with God against him then any other Armes. So that he resists him in the very highest straine that may be; and clearely admits, that Laymen who might lawfully use Swords and Bucklers, might with them justly defend the Church in standing and fighting for it against him even to death, as well as he might doe it with prayers and teares, his proper Armes: Which answers that objection out of his 170. *Epistle*, written to the same *King*; and his 183 Epistle to *Conrade* King of Romans; where he subjects *these Kings to the Pope, whom he adviseth them to obey; and reprehends them for their misdemeanours, notwithstanding that text of Rom.* 13. which he there recites.

(z) Ps. 49.

The fourth authority, is the example of the primitive Christians, who submitted themselves willingly to their persecuting Emperours; without resistance in word or deed. For proofe whereof, severall passages are recited out of Fathers, which I shal conjoyne: the first is out of *Tertullian* his *Apologeticus. Quoties enim in Christianos desævitis, partim animis propriis, partim legibus obsequentes? Quoties etiam præteritis à vobis* SUO JURE NOS INIMICUM VULGUS *invasit lapidibus & incendiis? Ipsis Bacchanalium furiis, nec mortuis parcunt Christianis, quin illos de requie sepulturæ, de asylo quodam mortis, jam alios, jam nec totos avellant, dissecent, distrahant? quid tamen de tam conspiratis unquam denotatis, de tam animatis ad mortem usque pro injuria repensatis? quamvis vel una nox pauculis faculis largitatem ultionis posset operaris si malum malo dispungi, penes nos liceret. Sed absit ut aut igni humano vindicetur divina fœlta; aut doleat pati, in quo probatur. Si e im in hostes exortos non tantum vindices occultos agere vellemus, de sset nobis vis numerorum & copiarum? Plures nimirum Mauri & Marcomanni, ipsique Parthi, vel quantacunque, unius tamen loci & suorum finium gentes, quàm totius orbis? Externi sumus & vestra omnia implevimus, urbes, insulas, castella, municipia, conciliabula, castra ipsa, tribus, decurias, palatium, senatum, forum, sola vobis relinquimus templa. Cui Bello non idonei, non prompti fuissemus, etiam impares copiis.* QUI TAM LIBENTER TRUCIDAMUR? *Si non apud istam disciplinam* MAGIS OCCIDI LICERET, QUAM OCCIDERE. *Potuimus & inermes,* NEC REBELLES, *sed tantummodo discordes solius divortii invidia adversus vos dimicasse. Si enim tanta vis hominum, in aliquem orbis remoti sinum abrupissemus*

Authority 4. (a) Dr. *Ferne*, The necessity of subjection. An Appeale to thy Conscience. Bishop *Morton*, *Hugo Grotius*, and others.

semus à vobis, suffudisset utique damnationem vestram tot qualiumcunque amissio civium, imò etiam & ipsa institutione punisset: proculdubio expavissetis ad solitudinem vestram, ad silentium rerum, & stuporem quendam quasi mortui urbes quæsissetis quibus imperaretis. Plures hostes, quàm cives vobis remanissent, nunc enim pauciores hostes habetis præ multitudine Christianorum, pene omnium civium. Which S. Cyprian (Tertullians imitator) thus seconds, *Ladere Dei & Christi servos persecutionibus tuis desine, quos læsos ultio divina defendit. Inde est enim quod nemo nostrum quando apprehenditur, reluctatur, nec se adversus injustam violentiam vestram quamvis nimius & copiosus noster sit populus, ulciscitur. Patientes facit de secutura ultione securitas. Innocentes nocentibus cedunt. Insontes pœnis & cruciatibus acquiescunt, certi & silentes, quod in ultum non remaneat, quodcunque perpetimur, quantoque major fuerit persecutionis injuria, tantò & justior fiat & gravior pro persecutione vindicta.* Which *Lactantius* thus trebles. *Confidimus enim Majestati ejus qui tam contemptum sui possit ulcisci, quam servorum suorum labores & injurias. Et ideo cum tam nefanda perpetimur, ne verbo quidem reluctamur, sed Deo remittimus ultionis.* (d) Saint *Augustine* relates the same in these words, *Neque tunc Civitas Christi quamvis ad hoc peregrinaretur in terra, & haberet tam magnorum agmina populorum, adversus impios persecutores, pro temporali salute pugnavit, sed potius ut obtineret æternam, non repugnavit: ligabantur, includebantur, cædebantur, torquebantur, urebantur, laniabantur, cruciabantur, & multiplicabantur. Non erat iis pro salute pugnare, nisi salutem pro salute contemnere.* The summe of all these Fathers sayings (which I have largely cited, because I would conceale nothing that might be materially objected) is this: That the Christians in the primitive Church, though they were many in number, and sufficiently able to defend themselves against their persecuters by force of Armes, did yet refuse to doe it, yeelding themselves up to any tortures, punishments, deaths, without the least resistance in word or deed; *Ergo*, the Parliament and Kingdome ought now to make no resistance at all against the Kings popish Army and Cavaliers, but to expose themselves to their cruelties and rapines, without the least resistance in word or deed.

Ad Demetrianum libr.

(c) *Lib. 5.*

(d) *De Civit. Dei, lib. 22.*

Answer.

(e) Mr. *Goodwin* his Anti-cavalierisme, Scripture and Reason for defensive Armes.

Because this objection sticks most with many Schollars, Statists, and tender consciences, I shall endeavour to give a satisfactory answer to it, without any shifting evasions, or questioning the truth of *Tertullians*, and *Cyprians assertions, concerning the multitude and strength of the Christians, and their ability to resist*, which some have taken (e) great paines to refute.

1. First, then I say, that neither of all these Fathers say, That the primitive Christians held it *unlawfull*, muchlesse *damnable, in point of conscience for them to resist their persecuting enemies*, no such syllable in any of them. And *Tertullians, Si non apud istam disciplinam* MAGIS OCCIDI LICET QUAM OCCIDERE, by way of necessary defence, implies no such thing, but rather proves the contrary, that resistance is lawfull, because it is lawfull to be slaine as a martyr; therefore in this case to slay. So as there is nothing in these authorities in point of conscience to condemne the Parliaments present resistance, and defensive warre, as unlawful.

2. Secondly, they all seeme to grant, that the Christians deemed resistance even by force of Armes to be lawfull for them, though they used it not; no Text of Scripture prohibiting, but allowing it, and these Fathers producing no one text which truly condemnes it; this being the very summe of their words. That though the Chri-

Christians were exceeding many in number, *of strength and power abundantly sufficient to defend themselves in a warlike manner against their persecuters, and had full liberty and no restraint upon them in point of Conscience either to withstand their persecutors with Armes, or to withdraw themselves from under the jurisdiction of their persecuters into remote parts, to the great weakning and losse of the State: yet such was their patience, innocency, and desire of Martyrdome, that they resisted not their Adversaries with force, nor retired, nor fled away from under their obedience, but cheerfully without the least resistance by word, deed, or thought, yeelded up their Bodies, Liberties, Lives, to the cruelties of their Enemies, to obtaine that Crowne of Martyrdome which they desired, and to offer up themselves a voluntary freewill oblation to the Lord, who would certainly avenge all their wrongs.* This is the sum of all these Authorities, which evidence resistance lawfull in it selfe, and to these Christians too in their owne judgements and resolutions, though the desire of Martyrdome made them freely to forbeare it. These Examples and Authorities therefore abundantly corroborate, and no wayes impeach our cause.

3. Thirdly, their examples of not resisting Persecuters, being rather voluntary, then enjoyned, out of a longing desire to be Martyrs, and an assurance of divine vengeance to be executed on their Persecuters, is no restraint nor ground at all for other Christians, now not to use any forcible resistance, it being a grosse inconsequent to argue: The Primitive Christians voluntarily refused to defend themselves with force of Armes against their Persecuters, though they were not bound in point of Conscience from such resistance, and had both liberty and power to resist. *Ergo*, Christians in point of Conscience ought not to make any forcible resistance against oppressing Lords and Persecuters now: For then this their voluntary choice and election should deprive all following Christians of that ability of defence which both themselves then had, and since enjoy by Gods and Natures Law. Yet this is all the argument which can be ingeniously framed from these Authorities and Examples; the absurdity whereof I shall thus further illustrate from like Precedents: We know, first, That (*f*) *the primitive Christians, out of a desire of martyrdome, not only refused to resist, but to flee away from their Persecuters, when they might safely doe it; some of them holding it unlawfull and dishonourable to flee in such a case*; by name *Tertullian*, in his booke *De fuga in persecutione*. Will our Opposites from hence inferre: *Ergo*, it is unlawfull for Christians not onely to resist, but even to flee from their Persecuters, or his Majesties murdering, plundering Forces? Or for themselves to flee, not onely from the Parliaments Forces, but Justice too, as many of them have done, yea, made escapes against Law to flee therefrom. If the Christians not fleeing, binde neither them, nor us, not to flee now, why should their not resisting onely doe it? Secondly, (*g*) *The Primitive Christians ran to the stake of martyrdome, when they were neither accused, cited, persecuted by any, freely confessing themselves Christians, and rather desiring presently to die Martyrs, then live Christians, and reputing it worse then death not to be admitted to, or delaied the honour of being Martyrs*, of which we have infinite Presidents in Ecclesiasticall Histories commonly known and over-tedious to recite. I shall onely instance in *Julian* the Apostates (*h*) Christian Souldiers: who being over-reached by him under colour of a largesse, to 'throw some Frankincense into a fire secretly kindled by the Emperour in honour 'of an Idol, they dreaming of no such thing, and doing it onely as a meere complemental.

(*f*) See *Socrat. Scholast. Theod. Niceph. Eccles. Hist. Fox* Acts and Monuments. *Tertul. Apolog. & ad Martyres Cyprian ad Martyres.*

(*g*) See *Fox* Acts and Monuments, Vol. 1. *passim.*

(*h*) *Nazianz. Orat. 47. in Julianum.*

'plementall Ceremonie; as ſoon as they heard how the Emperour had over-rea-
'ched them, and given out ſpeeches that they had ſacrificed to his Idol, preſently
'riſing from the feaſt prepared for them, in a fury, inflamed with zeale and wrath,
'ran through the Market-place, and cried out openly, Wee are Chriſtians, Wee are
'Chriſtians in minde; let all men heare it, and above all, God, to whom we both
'live and will alſo die. O Chriſt our Saviour, we have not broken our faith plight-
'ed to thee: If our hand hath any way offended, verily our minde followed it not
'at all; we are circumvented by the Emperours fraud, with whoſe gold we are woun-
'ded. We have put off impiety, we are purged by blood. After which, poſting
'ſpeedily to the Emperour, and caſting away their gold, with a generous and ſtre-
'nuous minde they exclaimed againſt him in this manner. O Emperour, we have
'not received gifts, but are damned with death. We are not called for our honour,
'but branded with ignominie. Give this benefit to thy Souldiers, kill and behead
'us unto Chriſt, to whoſe Empire onely we are ſubject. Recompence fire for fire;
'for thoſe aſhes reduce us into aſhes. Cut off the hands which we have wickedly
'ſtretched out; the feet wherewith we have perniciouſly run together. Give gold
'to others, who will not afterwards repent they have received it; Chriſt is enough,
'and more then ſufficient unto us, whom we account in ſtead of all. The Empe-
'rour enraged with this ſpeech, refuſed to ſlay them openly, leſt they ſhould bee
'made Martyrs, who as much as in them lay were Martyrs; but onely baniſhed
'them, revenging this their contempt with that puniſhment. Will it then follow from theſe memorable examples, That all true Chriſtians now in *England* and *Ireland* muſt come thus and offer themſelves voluntarily to the Popiſh Rebels and Forces (now in Arms to extirpate the Proteſtant Religion in both Kingdoms) or that the Members of both Houſes muſt go ſpeedily to *Oxford* to the King and his evill Counſellors, and there let them kill, hang, burne, quarter, ſlay, execute, torture them, ſubvert Religion, Laws, Liberties, Parliaments, without the leaſt reſiſtance? Or will our Oppoſites hence conclude (as they may with better Judgement and Conſcience doe) *Ergo*, all ſuch perſons voted Traitors and Delinquents in any kinde by both Houſes of Parliament, ought now in point of Conſcience (to avoid the effuſion of blood and ruine of the Realm, through the civill warres they have occaſioned) to lay down their Arms, and voluntarily reſigne up themſelves to the impartiall Juſtice of the Parliament, without any the leaſt reſiſtance for the future: If no ſuch Doctrinall, or Practicall concluſions may be drawne from theſe their Precedents of voluntary ſeeking and rendring themſelves up to the Martyrdome of their Oppoſites; then the unlawfulneſſe of reſiſting cannot be inferred from this their non-reſiſting. Thirdly, how many cowardly Souldiers in all ages, and in this too, have voluntarily yeelded up Forts, Caſtles, Ships, Armes, Perſons, to their invading approaching enemies without fight or reſiſtance? How many perſons have reſigned up their Purſes to high-way theeves, their Lands to diſſeiſors, their Houſes, Goods to riotors, their Ships, Eſtates, Perſons, to Turkiſh and other Pirats, without any reſiſtance, when they might have lawfully and eaſily preſerved them by reſiſting? Will it therefore follow, that all others muſt do ſo? that we muſt not fight againſt invading Enemies, Theeves, Pirats, Riotors, becauſe many good Chriſtians out of fear or cowardiſe, or for other reaſons have not done it in all ages? I know not. Will the Jews refuſing three (*f*) *or four ſeverall times to defend them-*

(*f*) *Joſeph. Antiq. Jud. lib. 12. cap. 13. lib. 13. c. 12. l. 14 c. 8. Dion. Hiſt. 56. Strabo Greg. lib. 16. 1 Mac. 2. Dr. Heylen Hiſtory of the Sabbath, p. 1. cap. 8.*

themselves against their insulting enemies on their Sabbath; or the (t) *Gothes not resisting their invading foes on the Lords Day*; or will the *Alexandrian* Jewes example and speech to *Flaccus*, (x) *Inermes sumus ut vides, & tamen sunt qui nos tanquam hostes publicos hic criminantur. Etiam eas quas ad nostri tutelam partes dedit natura, retro vertimus ubi nihil habent quod agant. corpora præbemus nuda & patentia ad impetum eorum qui nos volunt occidere.* Or that example of the Christian (x) *Theban Legion*, slain without the least resistance for their Religion: who as an ancient Martyriologer saith, *Cædebantur passim gladiis non reclamantes, sed & depositis armis cervices persecutoribus vel intectum corpus offerentes*: warrant this deduction. *Ergo*, no Christians now must resist their invading enemies on the Sabbath day, but must offer their naked bodies, heads, throats, unto their swords and violence? If not, then these examples and authorities will no wayes prejudice our present resistance.

(t) *Franciscus Carthagena Regum. Hisp. descrip. c. 44.*
(u) *Hugo Grotius de jure belli lib. 1. cap. 4. Annos ad sect. 7. p. 95. & sect. 7. p. 88. 89.*
(x) *See Grotius ibid.*

Fourthly, the Christians not onely refused to resist their oppressing Emperours and Magistrates, who proceeded judicially by a kinde of Law against them, but *even the vulgar people*, who assaulted, stoned, slew them in the streets against Law, as *Tertullians* words, *Quoties enim præteritis à vobis* SUO JURE NOS INIMICUM VULGUS *invadit lapidibus & incendiis, &c.* manifest without all contradiction; and indeed this passage so much insisted on, relates principally, if not onely to such assaults of the rude notorious vulgar, which every man will grant the Christians might lawfully with good conscience forcibly resist, because they were no Magistrates nor lawfull higher powers within *Rom.* 13. 1. 2. or 1 *Pet.* 2. 13, 14. Either then our Antagonist must grant, that it is unlawfull in point of Conscience forcibly to resist the unlawfull assaults and violence of the vulgar or private persons who are no Magistrates: and that it is unlawfull now for any Christians to resist Theeves, Pirats, or beare defensive Armes, as the (y) Anabaptists (from whose quiver our *Antagonists have borrowed this and all other shafts* against the present defensive warre) and so make the primitive Christians *all Anabaptists* in this particular: Or else inevitably grant resistance lawfull, notwithanding their examples and these passages of not resisting. The rather, because *Tertullian* in the next preceding words, puts no difference at all between the Emperour and meanest Subjects in this case; *Idem sumus* (saith he) *Imperatoribus, qui & vicinis nostris male enim velle, male facere, male dicere, male cogitare de quoquam ex æquo vetamur. Quodcunque non licet in Imperatorem id nec in quenquam.*

4.

(y) *Lucas Osiand. Enchir. contr. cap. 9.*

Fifthly, admit the Christians then deemed all forcible resistance of persecuters simply unlawfull in point of Conscience, as being a thing quite contrary to Christian profession and Religion; then as it necessarily proves on the one side, That even Christian Kings, Princes, Magistrates, must in no wise forcibly resist the tumultuous Rebellions, Insurrections, and persecutions of their Subjects, because they are Christians as well as Rulers, and in this regard equally obliged with them not to resist with Armes; much lesse then their Parliaments Forces lawfully raised for the publike defence. So on the contrary part it follows not, that therefore resistance is either unlawfull in it selfe, or that the Parliaments present resistance is so. For first, such resistance being no where prohibited (as I have formerly proved) their bare opinion, that it was unlawfull to them, cannot make it so to them, or us in point of conscience, since God hath not made or declared it so. Secondly, the

5.

primi-

primitive Chriſtians held many things unlawfull in point of Conſcience, which we now hold not ſo. (z) *Tertullian* and others informe us, *That the Chriſtians in his time thought it a hainous ſinne (Nefas) to pray kneeling on the Lords day, or between Eaſter and Whitſontide* (and ſo by conſequence to kneele at the Sacrament) *praying alwayes ſtanding on thoſe dayes in memory of Chriſts reſurrection.* Which cuſtome was ratified alſo by many (a) Councels: Yet then it was lawfull no doubt in it ſelfe for them to pray kneeling, and we all uſe the contrary cuſtome now. The Chriſtians then held it unlawfull, to *eat blood in puddings, or any other meats,* as (b) Tertullian, (c) Minucius Felix *teſtifie, and many* (d) *Councels expreſſely prohibited it ſince, as unlawfull:* Yet all Churches at this day deem it lawfull, and practiſe the contrary. The Chriſtians in *Tertullians* dayes, and he himſelfe in a ſpeciall Book, *De fuga in perſecutione,* held it unlawfull to flee in *times of perſecution, and therefore they voluntarily offered themſelves to martyrdome without flight or reſiſtance.* Yet we all now hold flying *lawfull,* and all ſorts practiſe it *as lawfull*; yea many more then they ought to doe. I might give ſundry other inſtances of like nature: The Chriſtians opinion therefore of the unlawfulneſſe of any armed reſiſtance of Perſecuters publike or private (held they any ſuch) though ſeconded with their practice, is no good argument of its unlawfulneſſe, without better evidence, either then, or at this preſent. Thirdly, the caſe of the Primitive Chriſtians and ours now is far different; The Emperours, Magiſtrates, and whole States under which they then lived were all Pagan Idolaters, their Religion quite contrary to the Laws and falſe Religions ſetled in thoſe States: There were *many* (e) *Laws and Edicts then in force againſt* Chriſtian Religion, unrepealed: moſt Profeſſors of Religion were of the loweſt ranke, (f) *not many wiſe, Noble, mighty men, ſcarce any great Officer, Magiſtrate, or Senator, was of that profeſſion,* but all fierce enemies againſt it: For Chriſtians, being but private men, and no apparant body of a State, to make any publike forcible reſiſtance in defence of Religion againſt Emperours, Senators, Magiſtrates, Lawes, and the whole State wherein they lived, had neither been prevalent nor expedient; a great hinderance and prejudice to Religion, and as ſome hold, unlawfull. But our preſent caſe is far otherwiſe; our King, Parliament, State, Magiſtrates, People, are all Chriſtians in externall profeſſion, our Proteſtant Religion eſtabliſhed, Popery excluded, baniſhed by ſundry publike Lawes; the Houſes of Parliament, and others now reſiſting, are the whole body of the Realme in repreſentation, and have authority, even by Law, to defend themſelves and Religion againſt invading Popiſh Forces: In which regards our preſent reſiſtance is, and may cleerly bee affirmed lawfull, though the primitive Chriſtians, in reſpect of the former circumſtances, might not be ſo. Secondly, their reſiſtance, (eſpecially of the Magiſtrates not vulgar rabble) if made, had been onely, ſingly for defence of their Religion then practiſed but in corners, publikely condemned, no where tolerated: Our preſent war is not onely for defence of our Religion eſtabliſhed by Law, and to keep out Popery, but for the preſervation of Laws, Liberties, the very eſſence of Parliaments, the ſafety of the Realme, and that by authority of Parliament, the repreſentative body of the Realme. The Parliaments defenſive warre, therefore, upon theſe politicke grounds is juſt and lawfull, though the Primitive Chriſtians, perchance in defence of Religion onely, as its caſe then ſtood, would not have been ſo: even as the Roman Senators and States

(z) *De corona Militis.*

(a) *Surius Concil. tom. 1. p. 347. tom. 2. p. 1052. tom. 3. p. 324. 277.*

(b) *Apologet.*

(c) *Octavius.*

(d) *Concil. Conſtant. 6. can. 76. Surius tom. 2. p. 1050.*

(e) *Tertul. Apolog. Euſebius, Socrates, Scolaſticus, Hiſt. 1.*

(f) *Cor. 1. 26. John 7. 48.*

States resisting of *Nero*, or any other Tyrannicall Emperors violations of the Laws, Liberties, Lives, Estates of the Senate, people, were then reputed just and lawfull, though the Christians defence of Religion would not have been so esteemed in those times. And thus I hope I have satisfactorily answered this objection without shifts or evasions, and rectified these mistaken Fathers meanings, with which our Opposites have seduced the illiterate over-credulous vulgar.

I have now (through Gods assistance) quite run through all Objections of moment from Scripture, Reason, Fathers, against the lawfulnesse of the Parliaments present defensive war, and discovered divers grosse errors, yea, Impostures in our Opposites writings, wherewith they have perverted many mens Consciences, and cheated the ignorant seduced world: I shall therefore here adjure them in the presence of Almighty God, as they will answer the contrary before his Tribunall at the Day of Judgement, seriously to consider these my answers, and publikely to retract those their Errors, false grosse mis-interpretations, perversions of Scriptures, Authors, which I have here discovered. And since they pretend *nothing but the satisfying and keeping of a good (g) Conscience in & by others, concerned in this Controversie*; to shew a syncere ingenuous Conscience therein themselves where they have been mistaken, since the contestation pretended, is not for *Victory, Time-serving*, or *Self-seeking*; but for *Truth, Gods glory*, and *the publike weal*: and if I have over-shot my self in any thing, I shall promise them a thankfull *acknowledgement*, and ready *palinedy* upon their information and conviction of any apparent oversights, I may casually fall into.

(g) *Doctor Ferns Resolving of Conscience, An Appeal to thy Conscience, The necessitie of Christian subjection, &c. all plead conscience.*

Now because they shall not deem me singular in my opinion concerning the lawfulnesse of subjects defensive Arms against their Soveraigns, bent to subvert Religion, Laws, Liberties, the Republike, or deem it is a late upstart Novelty, I shall conclude this discourse with such personall, naturall and publike authorities, as they shall not be able to balance with counter-resolutions; in which I shall be as briefe as I may be.

For personall Authorities, I shall not be ambitious to remember many, especially Papists, whose common, constant received opinion, and practise hath alwayes been and yet is, (h) *That Subjects upon the Popes command alone, and absolution of them from their Soveraigns allegiance, may and ought to take up even offensive Arms against their owne naturall Princes excommunicated, interdicted, deposed, or onely declared contumacious, Schism ticall or Heretical by the Pope, without, yea, against their Kingdoms, Parliaments privities or consents, much more then with their approbation.* What Papists have determined and practised in this very point you may read at large in *Gratian* himself *Caus.* 15. *Quæst.* 6. and *Causa.* 23. in the very *Oath of Supremacie*, and *Statut.* of 3. *Jacobi, ch* 4. which prescribes it, in Bishop *Jewels view of a seditious Bull*, in *Doctor Iohn Wrote his Defence of the way, Chap.* 6. & 10. in *Abbas Uspergensis, Sabellicus, Valateranus, Grimston* and others, in the Lives of the Roman and German Emperours; in *Aventine his Annalium Boyorum*, the *Generall and Particular Historics of France, Spain, Germany, Italy, Sicily, Hungary, England*; *in Bishp Bilsons third part of the True Difference between Christian Subjection and unchristian Rebellion.* In suudry *Sermons on the fift of November*, to which *I* shall refer you: In Pope *Paschal* his letter to *Robert* Earl *of Flanders*, about the year of our Lord, 1107. *exorting him to war against those of Leige*, Henry *the* Emperour *and his Assistants, whersoever he should finde them, excommunicated and deposed as an Heretike and enemy to the Church; telling him, that he could not offer a more gratefull*

(h) *See part.* 2. l. p. 4. 6.

* *Bolsecius in Decret. Eccl. Gall. l.* 5. *Tit.* 5. *c.* 8. *p.* 759.

ſacrifice to God, then to ware againſt them; concluding, Hoc tibi & Militibus tuis in peccatorum remiſſionem, & Apoſtolicæ ſedis familiaritatem præcipimus, ut his laboribus, & triumphis ad Cœleſtem Hieruſalem, Domino præſtante, pervenias: Which Letter was excellently answered by thoſe of *Leige*. And in the * *Councel of Towres* in *France*, under *Lewes* the twelfth, *Anno* 1510. it was unanimouſly reſolved by the *Church of France*, *That if the Pope did make war upon temporall Princes, in lands which they held not of the patrimony of the Church, they might lawfully by force of Arms reſiſt and defend both themſelves and others; & not only repulſe this injury, but likewiſe invade the lands of the Church, poſſeſſed by the Pope their notorious enemy, not perpetually to retain, but to hinder the Pope from becomming more ſtrong and potent by them, to offend both them and theirs. And that it was lawfull for ſuch Princes, for ſuch notorious hatred and unjuſt invaſion to withdraw themſelves from the* Popes *obedience, and with armed force to reſiſt all cenſures denounced by the Pope againſt them, their ſubjects and Confederates, and that ſuch ſentences ought not to be obeyed, but are mear nullities in law, which obliege no man.* Yet I muſt inform you further in brief, that *John Maior* a Popiſh Schoolman *in Lib.* 4. *Sentent.* (as *Grotius* writes) affirms, *That the people cannot deprive themſelves of the power, not onely of reſiſting, but depoſing Kings in caſes which directly tend to their deſtruction*; and that * *John Barclay*, a late Scottiſh Prieſt, though a ſtrenuous defendor of Princes Prerogatives, expreſly averres, *That if a King will alienate and ſubiect his Kingdom to another, without his ſubiects conſents, or be carried with a true hoſtile minde, to the deſtruction of all his people, that his Kingdom is thereby actually loſt and forfeited, ſo as the people may not onely abſolutely reſiſt, and diſobey, but depoſe him, and elect another King*: to which (k) *Hugo Gortius* a Proteſtant, freely ſubſcribes; and *John Bodin* alloweth of Subjects *reſiſtance, yea, depoſing kings, in ſome Kingdoms abſolutely, and in ſome caſes generallyin all*; *De Repub. l.* 1. *c.* 10 *l.* 1. *c.* 5 *& l.* 5 *c.* 5. *&* 6. For Proteſtant perſonall authorities: we have *Huldericus Zuinglius, Explanatio Articuli*, 40, 41, 42, 43. *Tom.* 1. *fol.* 82. *to* 86. who allows not only Subiects actuall *reſiſtance*, but *deprivation of Kings, Where Princes ſet themſelves to ſubvert Religion, Laws, Liberties*; and that by the common conſent of the States in Parliament, from whom Kings originally receive their Royall power and authority. *Martin Luther, Bugenhagius, Juſtus Jonas, Ambſdorfius, Spalotinus, Melanthon, Cruciger,* and *other Divines, Lawyers, Stateſmen, Anno* 1531. who publiſhed a writing in juſtification of defenſive Arms by ſubjects in certains caſes; *Sleidan. Hiſt. lib.* 8. 18. 22. *David Chrytræus, Chron. Saxoniæ, l.* 13. *p.* 376. *Richardus Dinothus de Bello Civili Gallico Religionis cauſa ſuſcepto, p.* 231. 232. 225 227, *&c.* A book intituled, *De Iure Belli Belgici, Hagæ*, 1599. purpoſely juſtifying the lawfulneſſe of the Low-countries defenſive war. *Emanuel Meteranus Hiſtoria Belgica, Præfat. & lib.* 1. to 17. *David Paræus, Com. in Rom.* 13. *Dub.* 8. *And. Quæſt. Theolog.* 61. *Edward Grimſton* his Generall Hiſtory of the *Netherlands, l.* 5. to 17. *paſſim. Hugo Grotius de Iure Belli & Pacis, lib.* 1. *cap.* 4. with ſundry other forraign Proteſtant * writers, both in *Germany, France, Bohemia*, the *Netherlands* and elſewhere; *John Knokes his Appellation, p.* 28. *to.* 31. *George Bucanon De Iure Regni apud Scotos*, with many * *Scottiſh* Pamphlets juſtifying their late wars: *Joh. Ponet* once B. of *Wincheſter*, his Book intituled, *Politick Govern p.* 16. *to* 51. *Alberi Gentilis de Iur. Belli, l.* 1. *c.* 25. *l.* 3. *c.* 9. 22. *M. Goodmans* Book in Q. *Ma.* dayes, intituled, *How ſuperior Magiſtrates ought to be obeyed, c.* 9. 13. 14. 16. *D. A. Willet his Sixfold*

Commentary

* *Bochellus Decret. Eccleſ. Gall. l.* 5. *Tit.* 5. *c.* 5. *p.* 757, 758. *Nich. Gilles Annals of France.*

* *De Poteſt Papæ in Principes chriſt. l.* 4. *c.* 16.

(k) *De Iure Belli, l.* 1. *c.* 4. *ſect.* 10, 11. *p.* 89 90.

* *Calvin Inſtit. l.* 4. *c.* 20. *ſect.* 31. *& in Dan. 6. v.* 22. 25. *Gſiander in Epiſt. centur.* 9. *&* 17. *Sharpii Sympho. p.* 244. 246, 412. *Vindiciæ contra tyrannos.*

* *See the ungarding of the Scottiſh Armies, p.* 3, 32, 34.

Commentary on Romanes 13. Quæstion. 16. & Controversie, 3. p. 588 589, 590, 608, &c. * Peter Martyr Com. In Rom. 13 f. 1026. with sundry late writers, common in every mans hands, iustifying the lawfulnesse of the present defensive War, whose Names I spare. And lest any should think that none but Puritanes have maintained this opinion, K. James himself in his Answer to Card. Perron, iustifieth the French Protestant taking up Defensive Armes in France. And (l) Bish. Bilson (a fierce Antipuritane) not onely defends the Lawfulnesse of the Protestants defensive Armes against their Soveraigns in Germany, Flaunders, Scotland, France; but likewise dogmatically determines in these words; "Neither will I rashly pronounce all that resist to be Rebels; "Cases may fall out even in Christian Kingdoms, where the people may plead their "right against the Prince, AND NOT BE CHARGED WITH REBEL-"LION, As where for example? If a Prince should go about to subject his People "to a forreign Realm, or change the form of the Common-wealth from Impery to Ty-"rannie, or neglect the Laws established by Common consent of Prince and people, to "execute his own pleasure. In these and other cases which might be named, IF "THE NOBILITY AND COMMONS IOYN TOGETHER TO DEFEND THEIR "ANCIENT AND ACCVSTOMED LIBERTY, REGIMENT AND LAWS, THEY "MAY NOT WELL BE COVNTED REBELS. I never denied, but that the People "might preserve the foundation, freedom, and forme of the Common-wealth, which "they forepriséd when they first consented to have a King: As I said then, so I say now, "The Law of God giveth no man leave; but I never said, that Kingdoms and Com-"mon wealths might not proportion their States, as they thought best, by their publike "Laws, which afterward the Princes themselves may not violate. By superiour Pow-"ers ordained of God, (Rom. 13.) we understand not onely Princes, BVT ALL PO-"LITIKE STATES AND REGIMENTS; somewhere the People, some-"where the Nobles, having the same interest to the sword, that Princes have to their "Kingdoms, and in Kingdoms where Princes bear rule by the sword; we do not mean "THE PRIVATE PRINCES WILL AGAINST HIS LAWS, BVT HIS PRECEPT "DERIVED FROM HIS LAWES, AND AGREEING WITH HIS LAWES: "Which though it be wicked, yet may it not be resisted of any subject, (when derived "from, and agreeing with the Laws) with armed violence. Marry, when Princes "offer their Subjects not Iustice, but force, and despise all Laws to practise their lusts, "not every, nor any private man may take the sword to redresse the Prince; but if the "Laws of the Land appoint the Nobles as next to the King to assist him in doing right, "and withhold him from doing wrong, THEN BE THEY LICENCED BY MANS LAW, AND NOT PROHIBITED BY GODS, to interpose themselves for safeguard of equity and innocency, and by all lawfull AND NEED-"FULL MEANS TO PROCURE THE PRINCE TO BE REFOR-"MED, but in no case deprived where the Scepter is Hereditary. So this learned Bishop determines in his authorized Book dedicated to Queen Elizabeth, point-blank against our Novell Court-Doctors, and Royall fts.

* Andin. l. Iul. 34. 55.

(l) The true Difference, &c. part. 3. p. 520, 521, 542.

But that which swayes most with me, is not the opinions of private men, byassed oft-times with private sinister ends which corrupt their judgements, (as I dare say most of our Opposites in this controversie have writ to flatter Princes, to gain or retain promotions, &c.) But the generall universall opinion and practice of all Kingdoms, Nations in the world from time to time. Never was there any State or King-

dom under heaven from the beginning of the world till now, that held or reſolved it to be unlawfull in point of Law or Conſcience, to reſiſt with force of Arms the Tyranny of their Emperours, Kings, Princes, eſpecially when they openly made war, or exerciſed violence againſt them, to ſubvert their Religion, Laws, Liberties, State, Government. If ever there were any Kingdom, State, People of this opinion, or which forbore to take up Arms againſt their Tyrannous Princes in ſuch caſes, even for conſcience ſake, *I* deſire our Antagoniſts to name them; for though *I* have diligently ſearched, inquired after ſuch, *I* could never yet finde or hear of them in the world; but on the contrary, *I* finde all Nations, States, Kingdoms whatſoever, whether Pagan or Chriſtian, Proteſtant or Popiſh, ancient or modern, unanimouſly concurring both in iudgement and conſtant practice, that forcible reſiſtance in ſuch caſes is both iuſt, lawfull, neceſſary, yea, a duty to be undertaken by the generall conſent of the whole Kingdom, State, Nation, though with the effuſion of much blood, and hazard of many mens lives. This was the conſtant practiſe of the Romans, Grecians, Gothes, Moors, Indians, Ægyptians, Vandals, Spaniards, Frenc'h, Britains, Saxons, Italians, Engliſh, Scots, Bohemians, Polonians, Hungarians, Danes, Swedes, Iews, Flemmins, and other Nations in former and late ages, againſt their Tyrannicall oppreſſing Emperors, Kings, Princes, together with the late defenſive Wars of the proteſtants in Germany, Bohemia, France, Swethland, the Low-countries, Scotland, and elſewhere, againſt their Princes, (approved by Queen *Elizabeth*, king *Iames*, and our preſent king *Charles*. who aſſiſted the French, Bohemians, Dutch, and German Proteſtant Princes in thoſe Wars, with the unanimous conſent of their Parliaments, Clergy, people) abundantly evidence beyond all contradiction; which *I* have more particularly manifeſted at large in my Appendix, and therefore ſhall not enlarge my ſelf further in it here: onely *I* ſhall acquaint you with theſe five Particulars.

(m) Sleidan. 8. 28. 22. Biſh. Bilſons Difference, &c. part. 3. p. 518. Chytraeus Chron. Sax. l. 13. p. 376, &c.

First, that in the (m) *Germanes* Defenſive Wars for Religion, in *Luthers* dayes, the Duke of *Saxonie*, *the Lantzgrave of Heſſe*, *the Magiſtrates of Magdeburge*, *together with other Proteſtant Princes, States, Lawyers, Cities, Counſellors and Miniſters, after ſerious conſultation, concluded and reſolved, That the Laws of the Empire permitted reſiſtance of the Emperour to the Princes and Subjects in ſome caſes, that defence of Religion and Liberties then invaded, was one of theſe caſes; that the times were then ſo dangerous, that* THE VERY FORCE OF CONSCIENCE AND NECESSITY DID LEAD THEM TO ARMS, *and to make a League to defend themſelves,* THOVGH CÆSAR OR ANY IN HIS NAME WOVLD MAKE WAR AGAINST THEM; *That if the Emperour had kept his bonds and Covenants, they would have done their duties; but becauſe he began firſt to make the breach, the fault is his: For ſince he attempteth to root out Religion, and ſubvert our Liberties, he giveth us cauſe enough* TO RESIST HIM WITH GOOD CONSCIENE; *The matter ſtanding as it doth, we may reſiſt him, as may be ſhewed by Sacred and prophane Stories. Unjuſt violence is not Gods Ordinance, neither are we bound to him by any other reaſon, then if he keep the conditions on which he was created Emperour.* BY THE LAWS THEMSELVES IT IS PROVIDED, *that the inferiour Magiſtrate ſhall not infringe the right of the Superiour: and ſo likewiſe if the ſuperiour Magiſtrate exceed the limits of his power, and command that which is wicked, not onely we need not obey him,* BVT IF HE OFFER FORCE WE MAY RESIST HIM. So they in point of Law and Conſcience then publikely reſolved.

Secondly,

Secondly, that the (*n*) *French Protestants*, and others, in the reign of King *Francis* the second, *Anno* 1559. being much oppressed by the *Guisian faction, who had got the K. into their power, and wholly swayed him* (as his *Maj.* ill Councellors sway him now) *thereupon assembling together to consult of some just defence, to preserve the just and ancient government of the Realm. They demaunded advice* TOVCHING LAW AND CONSCIENCE, OF *MANY* LEARNED LAWYERS AND DIVINES; *who resolved*, THAT THEY *MIGHT* LAWFVLLY *oppose themselvs against the Covernment which the House of* Guise *had usurped, and* AT NEED TAKE ARMS TO REPVLSE THEIR VIOLENCE; *so as the Princes, who in this case are born Magistrates, or some one of them would undertake it, being ordered by the States of the Realm, or by the sounder part of them.* (*o*) *That defence of Religion and Liberties against violence and oppression were iust causes of Warre*; Et *quod pia arma ea sint, ultra quæ nulla restat spes vitæ nec salutis.* Alike resolution and determination *was made by the chief Dukes, Peers, Nobles, and Officers of France, Anno* 1614. which you may read in the *Appendix*.

(*n*) *Gen Hist. of France p 682, 683 The Appendix p 34, 35. 44 45.*

(*o*) *Dinothus Hist. Gal. l. 4. p. 227.*

Thirdly, that the (*p*) *Angrognians* and *Waldensian Protestants of Lucerne and Piedmont in the year* 1558. *to* 1561. *being persecuted by the Lord of Trinitie and their Popish Soveraigns, assembling solemnly together to consult how to prevent the great dangers then at hand, after long prayer and calling upon God for his grace and Spirit of direction and Counsell, well to manage their weighty affairs, and to preserve themselves and the Protestant Religion professed by them, concluded in the end, to enter into a solemn mutuall Covenant, and to joyn in a League together for defence of themselves and their Religion; whereupon they all promised by Gods grace and assistance, to maintain the pure preaching of the Gospell and administration of the Sacraments, and one to ayd and assist the other, &c. which they did with good successe, obtaining many glorious victories against invading persecuting enemies.* The like did (*q*) *Zisca, the Thaborites and Bohemians heretofore, and of* (*r*) *later times*; as the *Magirnall Authors* largely relate, resolving it iust and lawfull for them in Law and Conscience, to defend themselves and their Religion by force of *Arms* against their persecuting Soveraignes.

(*p*) *Fox Acts & Mon Vol. 2. Edit. 1. p 208, 209. 213, 214.*

(*q*) *Fox Acts & Mon Vol. 1. Ed. 1. p. 848. to 852. Paulus Bolemic pic, lib. 1.*

(*r*) *Grimstons Imperiall Hist. p. 655, 730. to 740. 746. to 806 sparsim.*

Fourthly, that the (*s*) *Netherland Provinces*, being *oppressed in their Bodies, Estates, by the Duke of Alua and* Spanyards Tyrannie, *and in their Religion and Consciences, by the introduced Inquisition to extirpate Religion; did after serious delibe-ration, and consultation with learned men of all sorts, unanimously conclude and enter into a solemn Covenant to defend their Libities, Religion, Laws, by force of Arms, against the* Spanish Tyrannie; as you may read at large in their Histories. And in the year 1572. The Prince of *Orange* and his *Confederates having levyed a goodly Army to relieve Mons besieged by the Duke of Alua, caused this notable* * *Protestation to be printed and published to the World, as well in his own name, as in his Confederates, giving a reason of the Arms which he had taken up, as followeth.*

(*s*) *Erman. Meteranus, Hist. Belgica, Grimst. Gen. Hist. of the Netherlands.*

(*) *Grimstons Gen. Hist. of the Netherlands, p. 369, 370.*

We William *by the Grace of God, Prince of* Orange, *Earle of* Nassau, *&c. To all Noble-men, Knights, Gentlemen, and others, of what quality soever of these* Netherlands, *which desire the Liberty thereof, being miserably tyrannized and oppressed by the Duke of* Alva, *the* Spaniards, *and other their friends,* TRAYTORS AND MVRTHERERS OF THEIR OWN COVNTREY, *We declare that every-*

one of us, for a particular love and zeale he beares unto his Countrey, and for the glory of God, which we desire above all, have often sought by all meanes the good and quiet of the Countrey, as well by Petitions and other mild meanes, as by force of Armes, thinking to draw those that were as we are, to doe the like, sometimes by sighes and prayers unto God, having had patience untill that it should please him to mollifie the hearts of the said Tyrants; but in the end solicited and called generally and particularly by the inhabitants of the said Countrey, by reason of the inhumanities and oppressions; We have in the Name of God (ACCORDING TO OVR CONSCIENCES) TAKEN ARMES; protesting before God and his Angels, and before all Men present and to come, that we have not been moved hereunto by any private passion, but with an ardent desire which we have to oppose our selves against this more then barbarous and unsupportable tyranny, to the Proclamations, Edicts, taxes, Imposts and charges of the hundreth, thirtieth, twentieth and tenth penny imposed by the insatiable covetousnesse of the Duke of Alva, *against the Lawes Liberties, Freedomes, and ancient Priviledges of the said countrey; which Lawes, Liberties, freedomes and ancient priviledges, we mean (by the grace of God) to restore unto the said countrey, holding it under the obedience of their Prince and naturall Lord, as we are bound to do: affirming and maintaining, that* * *all Princes and Noblemen, Gentlemen, Commonweales, or others, of what quality soever, be they strangers or home-bred, that have been moved to give us aide or assistance IN THIS SO IVST AN ENTERPRISE, have not done it for any other intent, but for true piety and compassion which they have with us of the said miseries and calamities: Wherefore we pray and entreat every one, both in generall and particular, to assure themselves, that we intend not to doe wrong to any man, nor to attempt upon the goode estates or honour of any of what quality soever, were he of the Clergy, but are ready to aid and assist every one freely and willingly; as for his liberty, EVERY ONE IS BOVND TO SVCCOR VS BY ALL DVE AND POSSIBLE MEANES. In the mean time we will give order, that God and the countrey may be served, in procuring the preservation of the people, and the defence of their houses, wives, and children: Praying to God, that he would favour and bring to a good end* SO HOLY AND NECESSARY AN ENTERPRIZE.

* *Si Princeps Tyrannus est, iure Naturali reliquis omnibus mundi Principibus incumbit illi populo Tyrannidem patienti opem & auxilium ferre; hominum egregiorum virorum haec est vera laus, decus & honor. Vasquius Contro 1 ll. 36. n. 36.*

This their defensive Warre, yet continuing, hath been justified by many, and in speciall maintained to be just and honorable BOTH IN LAW AND CONSCIENCE in a particular Book *De jure Belli Belgici*, printed at the *Hague* with the States approbation, 1599. to which I shall referre you.

Fifthly, (which comes neerest to our present case of any story I have met with) *Alphonse* the 3. king of *Arragon*, in the *year* 1285. *through the ill advise of some bad Counsellors and Courtiers about him, departed in discontent from the Parliament of the Estates of Arragon then assembled at* Saragossa, *and posted to Osca, because the Parliament took upon them to make Lawes to reforme and order his Court, his Courtiers, which he denyed, but they affirmed, they had just right and power to doe. Hereupon, the businesse being put unto greater difficulty; the Estates affirmed. A Comitiis intempestive discedere Regi NEFAS ESSE, That* IT WAS A WICKED ACT, FOR THE KING THVS VNSEASONABLY TO DEPART FROM THE PARLIAMENT; NEITHER WAS SO GREAT A BREACH OF THEIR PRIVILEDGES AND RIGHTS TO BE PATIENTLY ENDVRED:

(r) *Hyeronimus Blanca Aragonens. Rerum Comment. p. 651. 652. & seq. 652.*

Where-

Whereupon they presently raised up the Name and FORCES OF THE UNION or Association (formerly made and entred into between the Nobility, Cities, and people, mutually to aid and assist one another to preserve the Peace and Liberties of the Realm, even with force of Armes) *IT BEING LAWFULL for the common cause of Liberty; Non Verbis solum, SED ARMIS QUOQUE CONTENDERE, not onely TO CONTEND with words, BUT ALSO WITH ARMES.* Vpon this, king *Alphonso* desirous to prevent the mischiefs then present and incumbent, by advise of his Privy Counsell, published certaine good Edicts at Osca for regulating his Court, Counsell, Judges, Officers; by which he thought to have ended all this Controversie, but because they were promulged onely by the Kings own Edict, not by the whole Parliament as binding Lawes, they still proceeded in the Union; till at last, after various events of things, this King returning to the Generall Assembly, and Parliament of the Estates at Saragossa, in the year 1287 condescended to their desires, and confirmed the two memorable priviledges of the Union, with the Soveraign power of the Iustice of Aragon, which could controll their very Kings: Of which see more in the *Appendix*.

I shall close up this of the lawfulnesse of a necessary defensive warre, with the speech of the Emperour *Alexander Severus*, recorded by (*s*) *Herodian*, *l.* 5. *He who first infers injuries hath no probable colour; but he that repulseth those who are troublesome to him; EX BONA CONSCENTIA sumit fiduciam; assumes confidence FROM A GOOD CONSCIENCE, and good hope of successe is present with him from hence, that he offers not injury, but removes it.*

(*s*) *Quoted by Grotius de Iure Belli* 2. *c.* 1, *Annot ad sect.* 14. *p.* 111.

Thus have I now at last waded thorow this weighty controversie, *of the lawfulnesse both in point of Law and Conscience, of the Parliaments present, and all other subjects necessary Defensive Warres against their Soveraigns, who invade their lawes liberties, Religion, Government, to subvert them, by open force of Armes:* in which I have freely and impartially discharged my conscience, not out of any turbulent, seditious, or disloyall intention, to foment or perpetuate the present, or raise any future destructive, unnaturall warres between king, Parliament, and People, or to countenance, to encourage any tumultuous, rebellious, factious, ambitious, traiterous spirits to mutiny or rebell against their Soveraigns for private injuries, or upon any false unwarrantable ends or pretences whatsoever; (let Gods curse and mens for ever rest upon all those, who are in love with any warre, especially a Civill, within their own deerest Countries bowels; or dare abuse my loyall sincere Lucubrations to any disloyall sinister designes, to the prejudice of their Soveraignes, or the States wherein they live:) but only out of a cordiall desire to effect such a speedy, honourable, safe, religious, sempiternall peace between king and Parliament, as all true Christian Englisn hearts both cordially pray, long for, and endeavour, by informing his seduced Majesty, his evill Counsellors, his Popish Malignant Forces, that if they will still proceed unnaturally and treacherously to make war against their Native Country, Religion, Lawes, Liberties, and the Parliament, (which to doe I have (*t*) elsewhere manifested to be no lesse then *high Treason, Rebellion, against both King and Kingdome*) they may in point of conscience and Law too, be justly opposed, resisted, repulsed, even by force of Armes, without any guilt of *Treason, Rebellion*, or feare of temporall or eternall *condemnation*, as *publike Enemies, Rebels, Traytors to the Realm*, whatsoever they have hitherto been informed of to the contrary by *temporizing*

(*t*) *Part.* 2. *Tit.* 2. *p.* 108. *to* 112.

porizing Lawyers, or *flattering illiterate Court Divines*; and by assuring all such noble generous publike spirits, who shall willingly *adventure their lives or fortunes* by the Parliaments command, in the present necessary defensive warre, for the ends premised; *that for this good service they shall neither in the Courts of Law, nor Conscience, incurre the least stain, or guilt of* Treason, Rebellion, Sedition, *or any such like odious crime, much lesse eternall condemnation*; the panick feare whereof, frequently denounced against them by many sottish Malignants, Royalists, ill-instructed Lawyers and Theologasters, hath frighted, kept back, and withdrawn multitudes from, yea cooled, corrupted many in this honourable publike duty, service, which they now owe of Right to God and their Countrey; in which to be treacherous, perfidious, sloathfull, negligent, cold, uncordiall, or timerous (as too many hitherto have been, to the greater honour of those who haue been faithfull, actiue, Valiant, and sincere) especially now after so many late horrid treacheries most happily discouered and a new Couenant solemnly entred into, demerits a perpetuall brand of infamy and reproach. To dye fighting for ones dearest bleeding, dying Countrey, hath in all ages been honoured with a Crown of Martyrdome; to liue or dye fighting against it hath ever deserved the most capitall censures, ignominies, and heaviest execrations. Let both sides therefore now seriously ponder and lay all the premises close to their soules, consciences; and then I doubt not through Gods blessing, but a happy peace will speedily thereon ensue (*x*) *Nation shall not lift up sword against Nation*, Countrey against Countrey, Englishman against Englishman, Brother against brother any more, as now they doe, *neither shall they learn such an unnaturall cursed kind of Civill Warre any more, but beat their swords into Plow-shares, and their speares into pruning hooks; and* (*y*) *greet one another with a kisse of holy peace and charity*: Which desired end and issue of these present bloudy warres God in his mercy hasten and accomplish, to the joy of all our Soules.

(*x*) *Isay* 2.4.

(*y*) *Rom.*16.16. 1. 1 *Thess.* 5. 26. 1 *Pet.*5.14.

I should now, according to former engagements, proceed to other remaining particulars; but because this part hath already farre exceeded its intended bounds, out of a desire to give full satisfaction in a point of highest present, and future concernment every way; I shall reserve the residue, with the *Appendix*, for another distinct part; with which I shall conclude my Meditations and Collections of this subject, without any further Additions, if God say *Amen*.

Finis Partis tertiæ.

Errata in some Copies.

PAg. 100. *l.*28. to. *by*. p. 101. *l.*32. Omri, *Zimri*. l. 40. Iudah, *Israel*, p. 115. l. 12, *that*. p. 127. l. 36. *of their*. p. 128. l. 31. hence, p 136 l. 8. not a Bishop; *a Bishop, not a Lay-man*. p. 14. *l.* 17. *dele* as: p. 15. *l.* 16. *brevis*. p. 26. *l.* 1. *assistants*. p. 94. *l.* 22. offer to, *r. ask of*. p. 17. *l.* 8 *no man should lose*. p. 105. *l.* 32. *tipodes*. p. 106. *l.* 2. *Rulers*, *l.* 34 *irresistance*. p. 107. *l.* 3. *by the*. p. 121. *l.* 16. *Emperours l.* 36 *Emperour*.

THE FOVRTH PART OF THE SOVERAIGNE POWER OF *PARLIAMENTS* and *KINGDOMES.*

Wherein the Parliaments Right and Interest in ordering the Militia, Forts, Ships, Magazins, and great Offices of the Realme, is manifested by some fresh Records in way of Supplement: The two Houses Imposition of moderate Taxes and Contributions on the People in cases of extremity, without the Kings assent, (when wilfully denyed) for the necessary defence and preservation of the Kingdome; and their imprisoning, confining of Malignant dangerous persons in times of publicke danger, for the common safety, are vindicated from all Calumnies, and proved just.

Together with an *APPENDIX*,

Manifesting by sundry Histories and Foraine Authorities, that in the ancient Kingdome of *Rome*; the *Roman, Greeke, German Empires*; *the old, the present Grecian, Indian, Ægyptian, French, Spanish, Gothish, Italian, Hungarian, Polonian, Bohemian, Danish, Swedish, Scottish*, with other Foraine *Kingdomes*; yea in the *Kingdomes of Judah, Israel*, and other Gentile *Royalties*, mentioned in Scripture; the *Supreame Soveraigne Power resided not in the Emperours, or Kings themselves, but in the whole Kingdome, Senate, Parliament, State, People*, who had not onely Authority to restraine, resist, yea call their Emperours, and Kings to an account, but likewise, when they saw just cause, to censure, suspend, deprive them for their Tyranny, vices, mis-government; and sometimes capitally to proceed against them. With a briefe Answer to the contrary Objections; and tenne materiall Observations, confirming all the Premises.

By WILLIAM PRYNNE, *Utter-Barrester, of Lincolnes Inne.*

Olaus Magnus l. 8. c. 32. De Iniquis Consiliariis, &c. 32.

Iniqui Consiliarii aiunt, Regem nihil injuste facere posse, quippe omnia omnium ejus esse, ac homines et res ipsi. Tantum vero cuique esse proprium, quantum Regis Benignitas et mansuetudo meriti, &c. Utcunque sit, multi Principes hoc & similibus consiliis & consiliariis, facti sunt exules, miseri, infames, & inhabiles in se & posteritatem, ampliùs gubernandi. Principis itaque Officium est, ut non secus curet subditos, quam fidelis Pastor oves, ut diligat, foveat, conservet.

It is this tenth day of *July*, Ordered by the Committee of the House of Commons concerning Printing, that this Booke Intituled *The fourth Part of the Soveraign power of Parliaments and Kingdoms, &c.* be Printed by *Michael Sparke senior*.

John White.

Printed at *London* for *Michael Sparke* Senior. 1643.

To the READER.

ourteous Reader,

I Here *present thee with the* last Part, *of* The Soveraigne Power of Parliaments and Kingdomes, *and* An Appendix *in pursuance of it; abundantly manifesting, from the very fundamentall Constitutions, Lawes, Customes, Resolutions, Remonstrances, Oathes, Inaugurations, Elections, Ceremonies, Histories, publique Transactions, Treaties, Agreements, Wars, of Forain Empires, Emperors, ealmes, Kings, States, Senates, Diets, Parliaments, in all Ages, and the most judicious fo-ine Authours of all sorts;* That whole Kingdomes, Parliaments, Senates, States, Na-ons, collectively considered, have ever constantly enjoyed, in all Ages, Nations, the oft Soveraigne Jurisdiction, and Authority, and beene Paramount their Kings and nperours, who were and are subordinate, accountable for their actions to them, *d copiously refuting the fond erroneous fancies of all illiterate flattering* Court-Doctors, heologasters, Lawyers, Statists, *who, without any shadow of Truth or Reason, audaci-lly averre the contrary, not so much to flatter or seduce their Princes, as to advance them-ves; against whom the contrary constant practice and resolutions of most lawfull Kingdomes, at either are or have beene in the world from* Adams *dayes till now, shall unanimously rise in dgement, and passe a most Catholike irreversible sentence on them, for their notorious flatte-s and Impostures.*

For mine owne particular, as I have alwayes beene, and ever shall be an honourer, a defender Kings and Monarchy (the best of Government, whiles it keepes within the bounds which w and Conscience have prescribed;) So, I shall never degenerate so farre beneath the duty of Man, a Lawyer, a Scholar, a Christian, as to mis-informe, or flatter either; nor yet (out of y popular vain-glory) court either Parliaments *or* People, *to the prejudice of Kings* just oyalties; *but carry such an equall hand betweene them, as shall doe right to both, injury to ither; and preserve, support their just, Legall severall Soveraignties, Jurisdictions, Rights, ithin their proper limits, without tyrannicall invasions, or seditious encroachments, upon one otber, to their mutuall and the Republickes prejudice.*

It fares with Regall *and* Popular Powers, *usually, as with* Seas *and* mighty Rivers, *they violently breake downe, or swellingly overflow their fixed bankes, they presently cause an* undation, *and in stead of watering, surround, and drowne the Countries round about them, a season, (sometimes for sundry yeares) ere they can be perfectly drained, and their bankes re-ired, to confine them to their* ancient proper Channels, *; of which we have present ad perience, written in* Capitall red Bloody Letters, *throughout the* Realme. *To redresse vent which overflowing mischiefe for the future, I have without feare or flattery of any bu-ne Power, or party whatsoever, by* Publicke Authority *divulged this* last, *and the* three eceding Parts *of this* Discourse: *together with the* Appendix, *(all hastily collected, and re confusedly compacted through want of time, and sundry interrupting Avocations, then desired) wherein I have impartially, according to my judgement, conscience, defended nought, t ancient, undoubted, universall Truthes of reall State-Policy, and true Theologie, (don't gotten in the world, yea cryed, Preached, Printed down for erronious, seditious Paradoxes, if not easons, by Sycophants and Malignants in these later ages;) out of a cordiall affection much as in me lyeth, to restore and settle the weale, tranquillity, and safety of my bleeding, dy-*

ing Country, now miserably distracted, wasted, consumed every where: (through the long fore-plotted conspiracies of Romish Priests and Jesuites, to subvert the Protestant Religion and our Realmes) upon a pretended quarrell unhappily raised by them, betweene the two much mistaken Grand Soveraigne Jurisdictions, of King and Parliament, Crowne and Kingdome, now miserably clashing one against the other, through ignorance and mistakes, and trying their Titles in the open field BY BATTAILE, in stead of Law; by the Sword of the Souldier, not of the Spirit, the onely proper peaceable Judges in these Quarrels, by which alone they can and must be finally resolved, settled; else neither King nor kingdome, can be ever quiet, or secure from dangers, and Commotions.

I dare not presume to arrogate to my selfe, a Spirit of in-errability in the grand Controversies here debated, wherein I have travelled in no beaten common road; No doubt * Generall, Nationall Councells, Parliaments, Popes, Kings, Counsellors, Statesmen, Lawyers, Divines, all sorts of men, both may, and usually doe erre from Truth, (especially in Questions which concerne their owne Jurisdictions, Honours, Profits;) and so may I. But this I dare with safe conscience protest to all the world, that I have not willingly erred in any particular; and if I have casually failed in any thing, out of humane frailty, I shall (upon better information) acknowledge and retract it. In the meane time, I trust, I have here sufficiently discovered, refuted, many common impostures and erroneous grosse mistakes in Law, Policy, Divinity, Antiquity; which have in later ages beene generally received as indubitable verities, by most men; yea professedly defended by sundry injudicious Lawyers, and ignorant Divines (though perchance reputed learned, solid in their own, and others opinions) who never tooke the paines to dive into the true originall fundamentall creations, institutions, publicke Lawes, Reasons, Policies, Jurisdictions, compositions, Rights, Customes, Histories of Kings, Kingdomes, Parliaments, States, Magistrates, People; the ignorance whereof, hath made them confidently vent many grand absurdities, and untruthes, to the prejudice, imbroyling, and almost utter ruine of divers Kings and States; which now, I hope, they will ingenuously acknowledge and recant with reall griefe and shame, that they have so grossely cheated, seduced Kings, Kingdomes, People, and oft times stirred up civill warres, to maintaine their idle lies, crazy fictions, as just Royall Rights, and indubitable Prerogatives, when as they are nothing lesse.

* See the 21. Article of the Church of England, & Rogers ibidem.

I shall not begge any mans beliefe, of any Truth here newly discovered, further than his own judgement & conscience, upon serious consideration, shall convince him of it; and himselfe discerne it fully ratified by substantial precedents and Authorities in the body and close of the Treatise & Appendix: Only this I shall request of every Reader, to peruse over all the Parts of this Discourse with a cordiall Love of Truth and Peace; and when he is convinced what is Truth, then to live and dye in Pauls resolution, 2 Cor. 13.8. We can doe nothing against the Truth, but for the Truth. It was our Saviours owne reply to Pilate, John 18.37. For this end was I borne, and for this cause came I into the world, THAT I SHOULD BEARE WITNESSE UNTO THE TRUTH: O then let it now be every ones end, and practice too; since it is the * Truth (and nothing else) that shall make (and keepe) us free: Free, from Errors, Troubles, Tumults, Warres; Slavery, Tyranny, Treachery, Popery, dangers, feares: Wherefore, * love the Truth and Peace, and then through Gods mercy we shall speedily regaine, retaine them both.

* John. 8. 32.

* Zech. 6. 19.

Farewell.

THE Fourth Part of the Soveraign POWER of PARLIAMENTS and KINGDOMES.

The Parliaments Intereſt in the Militia, Forts, Navy, & Officers of the Kingdom.

IN the preceding Parts of this Diſcourſe, I have with as much perſpicuity and ſincerity as I could, waded through thoſe deepe and weighty differences of greateſt importance, which have lately (to our great unhappineſſe) I know not by what * evill ſpirits ſolicitation, unexpectedly riſen up by inſenſible degrees, betweene the *Kings Majeſtie*, and the preſent *Parliament*; (whoſe primitive ſweet agreement, made us not ſo happy, as their ſubſequent Diviſions in place, affection, opinion, have rendred the whole three Kingdomes miſerable,) in point of *Royall Prerogatives* onely, which I have diſpatched: I ſhould now proceed to other Controverſies betweene them, principally concerning the Subjects Liberties; But before I paſſe to thoſe particulars; I ſhall preſent you with ſome few *Records* of ſpeciall note (caſually omitted in their proper place, through over-much haſte, and want of time) which will very much cleare the Parliaments juſt right, and ancient Juriſdiction *In ordering the Militia of the Realme, by Sea and Land*; in *diſpoſing the Ships, the Forts of the Realme for the publicke ſafety in times of danger*; *in concluding matters of Warre and Peace; in placing and diſplacing the great Officers, the Privy Counſellors of the Kingdome*; *yea regulating the Kings owne houſhold, and meniall ſervants oft times*; when there was occaſion; which may ſerve as a ſupplement to the ſecond part.

* Judg 9.23.

It it the determination of *Henricus Rantzovius*, a Noble *Dane*, a great Stateſman and Souldier in his *Commentarius Bellicus*, Dedicated to *Chriſtierne* the fourth, King of *Denmarke*, *Anno* 1565. *lib.* 1. *c.* 3. *That* **All Kings and Princes in moſt Republickes**, *rightly and lawfully conſtituted, are obliged by their paction entred into before their Inauguration*, (*a*) *Not* **to begin or move any Warre without the conſent of all the Eſtates** *and* **Nobles.** *Thus in my hearing*, Philip *King of* Spaine *was* *taken* *demanded and tooke an Oath from his Subjects in the Netherlands, promiſed by a mutuall Oath to the Eſtates*, **That he would make no warre in theſe parts without their privity.** *The ſame alſo* (*moſt Noble King*) **is received** *and* **obſerved not only in our Kingdomes and Dominions, but likewiſe is in uſe almoſt in all Europe.** *Therefore* Frederick *your Father*

(*a*) *Plato Legg. lib.* 12 *de Ll. Si quis privatim ſine publico ſcito, pacem bellumve fecerit, capitale eſto.*

of moſt famous memory, knowing himſelfe to be bound hereunto by compact, before he would be involved in the Swediſh Warre, communicating the whole buſineſſe faithfully to his people, as well to the Senators of the Realme, as to the Nobles of the Dukedomes, maturely adviſed with them about the manner of waging it. Wherefore, leſt the Warre which is undertaken bee accuſed as unjuſt by the States, becauſe it was undertaken without their advice, contrary to cuſtome and agreements, **all ought to be aſſumed into the Counſell and care of Warre.** *For thus it will come to paſſe, beſides, that things very well thought on and deliberated by many, have for the moſt part better ſucceſſes, than thoſe things which are raſhly begun by ſome one; that the Subjects, who not unwillingly bring their eſtates and lives into danger, will leſſe feare the loſſe of both, will fight more valiantly, and will put forth all their ſtrength in proſecuting and ending the combate of warre, even for this reaſon, that themſelves have beene the adviſers of the warre.* Upon this reaſon, not onely the *Kings of the Jewes, Arragon, France, Navarre*, and others, (as I have manifeſted in the (*b*) *Appendix*) but even of this our Realme, have uſually undertaken all their warres, and ordered all their Military affaires, both by Sea and Land, by the advice and direction of their Parliaments, as the Grand Councell of Warre, both for King and Kingdome. This I have plentifully manifeſted in * the premiſes, by ſundry examples, and ſhall here onely briefly ratifie with ſome few new Precedents.

(*b*) Page 141. 22, 23, 95, 72. and elſewhere.

* Part 2. & 3.

In the firſt Parliament of 13 *Ed.* 3. *after Proclamation made, Num.* 2. That none ſhould come armed with weapons to the Parliament, *Num.* 3. The cauſes of ſummoning the Parliament were ſhewed to the Lords and Commons, to have their counſell and advice therein, what was beſt to be done; and expreſſed to be three. Firſt, that every one, great and ſmall, ſhould conſider, in what manner the peace might moſt ſurely be preſerved within the Realme. Secondly, how the Marches of *Scotland*, and the Northerne parts might be beſt defended and kept againſt the enemies of *Scotland*. Thirdly, how the Sea ſhould be guarded againſt the enemies, that they ſhould doe no dammage, nor enter the Realme for to deſtroy it. *After this. Num.* 4. The Biſhops and Letters from the King then in *France*, relate to the Houſes the Eſtate of the Kings Army, warres, and proceedings in *France*, and the great debts the King ſtood ingaged in for the maintenance of his Army; for diſcharge whereof and the Kings further reliefe in the eaſieſt way, to ſupport his warres, the Lords condeſcended to grant the ninth ſheafe of all their corne, and the ninth fleece and Lambe of all their flockes to the King, for the two next yeares, ſo as the cuſtome of Mal-tolt, newly impoſed on Woolls, ſhould be releaſed, and this grant not drawne hereafter into cuſtome, as a precedent to their prejudice. Who acquainting the Commons therewith, they after deliberation; *As to the Kings ſupply; returned this Anſwer. Num.* 8, 9. *That* they thought it meet the King ſhould be ſupplyed, and were ready to ayde him, as they had alwayes formerly beene, but yet as the ayde was granted in this caſe, they durſt not aſſent to it, untill they had conſulted and adviſed with the Commons in the Country; for which end they craved time to goe into their Counties, and that Writs might iſſue to ſummon another Parliament on the *Octaves* of Saint *Hillary*, of the richeſt Knights in every Shire at a ſhort day to come, (which, was (*c*) condeſcended to.) *After which, Num.* 9, 10, 11. *they gave this anſwer in writing concerning the three Articles propounded to them: Firſt*, As to the keeping of the peace of the Realme, that the Juſtices of the Peace had ſufficient power already to that purpoſe; onely they adde, that diſturbers of the peace ſhould not be let out of Priſon, but upon ſufficient Bayle, and that no Charters of pardon ſhould be granted to Felons, but by

(*c*) *Num.* 22, 23 24, 25.

common

common consent in Parliament, and all other pardons held as voyd. *To the second they answered,* That the King before his going beyond the Seas had taken so good order, and appointed such sufficient Guardians to defend the Marches of *Scotland*, who were best able to guard those parts, that the enforcement of them by the Kings Councell would be sufficient, without any charge to the Commons; Only, they ordered, that every man who had Lands in the Marches of *Scotland*, of what condition soever they were, should reside upon them to defend them (as it had beene formerly ordained) without charge to the Commons. *To the third*, concerning the guard of the Seas: The Commons prayed that they might not be charged to give Counsell in things of which they had no conisance (or charge;) and that they were advised, that the Barons of the Ports which at all times have honours before all the Commons of the Land, and are so enfranchized to (*d*) guard the Sea betweene us and strangers, (if so be it fals out, that they will enter and assaile our Land) that they contribute to no aydes nor charges on the said Land, but receive profits without number arising by the Sea, for the Guard aforesaid. Wherefore the Commons are advised, that they ought to maintaine a guard upon the Sea, as the (*e*) Commons do upon the Land, without taking or demanding wages. Likewise, there are other great Townes and Havens which have a Navy, that are in the same case, and are bound to guard the Sea. And as for the safeguard of the Watch-houses upon the Sea by Land; let the guard of them be made by the advice of the Knights of the Shire, where the said Guardians are assigned, in the safest manner that may be, without charge of the Commons: And that the people of the Land, of what condition soever, which have lands on the Coast, shall keepe residence upon those Lands, the better to repulse the enemies from the Land, so that for their abiding there, they shall be discharged to give any aide toward the same guard elsewhere. *Num.* 13. The Commons frame and demand a generall pardon, upon grant whereof they promise to aide the King with monies. *Num.* 14. They make an Ordinance for increase of monies in the Realme. *Num.* 15. Because the ships of *England* went not out together in Fleetes, to trade, but severally, out of desire of gaine and covetousnesse, and so many of them were taken by the Enemies of the King, and the men slaine and murthered, to the dishonour of the King and the whole Realme; it was agreed, and assented in full Parliament, that all the Navy should stay and be arrested, till further order were given to the contrary. *Num.* 16. It was accorded and assented in Parliament, that the Bishops and Lords in the Parliament, should send Letters to the Archbishop of *Yorke*, and the Clergy of his Province, under their Seales, to excite them to grant a convenient ayd for the guard of the Marches of *Scotland*, for the defence of the Church, the Realme, and themselves, as the Clergy of the Province of *Canterbury* had done. *Num.* 17. It is accorded, that Master *Robert de Scardeburgh* shall be put into the Commission which shall be sent into the County of *Yorke*, to survey the Array of the people, which shall be chosen for the defence of the Realme, in lieu of Sir *Thomas de Blaston*. That Sir *Richard Chastell* shall be put in the Commission to survey the Array in the Counties of *Notingham* and *Derby*, and *John Feriby* in the County of *Lancaster*. *Num.* 18. It is assented that the people of *Holdernes* shall be Arrayed, taxed, and make ayde for the guarding of the Marches of *Scotland*, and other businesses of the King in those parts, notwithstanding the Commission made to them to guard the Sea, *Num.* 21. The Lords who have Lands towards the Marches of *Scotland*, are commanded and prayed by writs and Letters to repaire thither for defence

(*d*) See *Camdens Britannia*, p. 318. accordingly.

(*e*) See 19 E. 3. p. 1. M. 14 & 21 E. 2. m. 14 Iurge Cowel, Argument against Shipmony, p. 69. to 74.

fence thereof, namely the Lords of *Ros*, *Wake*, *Mowbray*, *Clifford*, and Maſter *William Dauberny* Steward of the Earle of *Richmond*, and that thoſe who could not in this caſe goe in proper perſon, ſhould ſend their people to the Lords in the Marches.

In the ſecond Parliament held this yeare, by appointment of the firſt (Octabis Hilarii, 13. Ed. 3. Num. 2.5. Edward Duke of *Cornwall*, Guardian of *England* (in the Kings abſence) being hindered by other buſineſſes to be preſent in this Parliament, by Letters Patents under the Kings great Seale, appointed the Archbiſhop of *Canterbury*, and others to ſupply his place, and hold the Parliament. *Num. 6, 7, 8, 9.* The Commons for the defence of the Realme, Sea, and Marches of *Scotland*, granted the King thirty thouſand ſackes of Wooll, and the Earles and Barons, the ninth ſheafe, Fleece and Lambe, within their Demeſne Lands; and agreed to raiſe a great ſumme of money preſently, to ſet out a fleet of Ships to Sea, fraught with men of armes, and archers for defence of the Realme. *Num. 10.* All the Merchants of *England*, were ſummoned by writ to appeare at *Weſtminſter* in proper perſon, to conferre upon great buſineſſes concerning the Kings honour, the ſalvation of the Realme, and of themſelves. *Num. 11.* The Mariners of the Cinque-ports upon their departure promiſed to make their ſhips ready by Mid-Lent; and were to receive a ſumme of money to helpe defray their charges herein; and the men of the Cinque-ports, promiſed to defray the moity of the coſts; and the Kings Counſell the other moity, but not in name of wages, but out of ſpeciall grace; and the (*f*) Cinque-ports were to finde 21 ſhips of their owne, and nine ſhips of the River of Thames. *Num. 12.* The Mariners towards the Weſt promiſed to finde 70. ſhips of an hundred Tunne and upwards, and to make them ready by the ſame day; and to defray the charges of them as farre as was requiſite; and for the reſidue, the Kings Counſell were to ſend them a ſumme of money for their aide, but not as wages, but of ſpeciall grace; and a Clerke was ordained to ſurvey the charges of the Mariners of the Weſt; and of the Cinque-ports. *Num. 23.* All the ſhips of *Portſmouth*, and the Weſt, were to meet at *Dartmouth* at the day aſſigned; and the Earle of *Arundell* was aſſigned their Admirall; And the ſhips of the Cinque-ports and the River of Thames, were to meete, & aſſemble at *Winchelſe*, and the Earle of *Huntindon*, appointed their Admirall; and that all theſe ſhips ſhould be ready by the middle of Lent, *Num. 19.* The Admiralls of all parts were commanded to arreſt all other ſhips, that might paſſe the Seas, for feare of being ſurpriſed by the enemies, & that 200. men ſhould man thoſe to whom the ſmaller ſhips belonged, to bring them into ſuch havens where they might be ſafeſt from the Enemies. *Num. 15.* Writs were directed to all Sheriffes of *England* to make Proclamation, that all thoſe who had Charters of pardon, ſhould repaire towards the Sea, in the ſervice of the King, and at his wages by the middle of Lent, upon paine of loſing their Charters, and being put to anſwer the things contained in them, in caſe they ſhould not goe. *Num. 16.* It was accorded and aſſented in Parliament, that Maſter *Richard Talbot* ordained to guard the Towne of *Southampton*, which he had undertaken to doe, ſhould have a company of men at Armes, and Archers at the Kings wages, which he might increaſe if there were cauſe; that he and they ſhould have their wages paid them monethly, from the ſecond Sunday in Lent, and ſo forwards whiles they continued in that Service, & that he ſhould receive 200. pounds in money, and 200. markes in Wooll, in reſpect of his ſaid ſervice, and to defray his ancient debts. And he had power given him to aſſeſſe and levy monies upon the ſaid Town, towards its defence; and if the Towne were not able to defray all the charge, the King ſhould ayde them for the reſidue.

(*f*) See *Cambdens Britan.* p. 315.

Num.

'*Num.*18. The Bishop of *Winchester*, the Prior of St. *Swithin* of *Winchester*, and the 'Abbot of *Winchester*, were commanded to have the people of their Manners next 'the Towne of *Southhampton* well armed and arrayed, that they might be ready to 'their power to defend the said town, upon summons of the Guardians thereof, that 'no perill might happen thereunto, *Num.*19. That two Pinaces, one of *Melbroke*, and 'the other belonging to *Roger Normand*, should be assigned to remaine in the port of '*Southampton*, at the appointment of the said Mr. *Richard*, for the safety thereof. '*Num.* 20. All the Burgesses and Sea-men of the Town which had departed thence, 'were ordered to goe and abide therein for the defence thereof, and of their owne 'possessions; and in case they refused, that their Lands and Possessions should be sei-'zed into the Kings hands, and the profits of their Lands which should be found 'elsewhere. *Num.*21. That a Commission should be made to *Stephen Butterly*, and '*William Weston*, Serjeants at Armes, to take Timber, Bords, and other things neces-'sary for the safety of the said Towne at certaine prises, upon endenture made be-'tween them and the owners of the said goods; and that the King should pay, or 'give them other satisfaction. *Num.*22.23. That all the Armes, Engines, Ammuni-'tion, Iron and Lead in the said Towne, should be delivered to the Gardian of it by 'Indenture; who should have the same power in all things within that Towne, as 'the Earle of *Warwicke* had, when he was Governour. *Num.*24. That the Sheriffe 'should have a Writ of attendance, to be attendant on the said Mr. *Richard*, with 'Victuals, and all other things necessary for the safegard of the said Towne. *Num.* '25.26.27. Certaine Merchants are appointed and take upon them to the Parlia-'ment, to buy great proportions of Corne, Peas, Oates, Hay, and other provisions, '(the quantities whereof are particularly expressed) at certaine rates, to victuall '*Barwicke*, the Castles of *Edenburg*, and *Strivelyn*, (which Castles Mr. *Thomas Roke-*'*by*, Guardian thereof, promised to keep till Saint *Johns* day then next to come, upon 'condition to receive his wages formerly due, out of the first moneys granted to the 'King in this Parliament.) by a certaine day; provided they shall carry no victuals 'to the enemies of the King and Realme, and that they should be payd out of the 'first moneys arising out of the ayde granted to the King. *Num.* 28.29. The inha-'bitants of the *Isle of Wight* were respited of the ayd granted to the King, according 'as their good carriage should be during the war; and it was agreed in Parliament, 'that no Commandement nor Ordnance, or license granted under the great or privy 'Seale, to any of the said inhabitants bound to defend the said Isle, should licence 'any to absent himself from it during the war, unlesse it were for feare of disinheriting 'or other great necessity, with which the Councell should be acquainted, or upon in-'quests. *Num* 30.31. Provides, that the Castle of *Caresbroc* in the *Ile of Weight* should 'be furnished with a certaine proportion of Wine Corn, Peas, Oats, Hey, Coles, Iron, 'Salt; and that a Commission should be granted to *Robert Vandalym* Sheriffe of '*Southampton*, and to *William* of *Kirkenwich* joyntly and severally, to purvey and de-'liver the same provisions over by Indenture, to the Constable of that Castle; and 'a Writ directed to the Kings Botteller, to deliver the Wines assigned (to wit ten 'Tonne) out of the Wines then in, or which should first come into his hands. *Num.* '32. Mr. *Thomas Ferrers* undertakes to the Parliament, to send without delay a suf-'ficient man to the Castle of *Jersey*, to survey the defaults and state of the said Ca-'stle, to certifie the Councell fully of them; and in the meane time to finde the wages

'of thoſe remaining there in garriſon, to the ſumme of an hundred pounds; and a 'Writ is directed to the Sheriffe of *Southampton*, to furnish the ſaid *Thomas* with a 'convenient quantity of Powder, and Iron, and other neceſſaries for the defence of 'that Caſtle. And becauſe *Thomas Peyne*, one of the Jurates of that Iſle was gone to 'the enemies, contrary to a defence made, that a Writ ſhould iſſue to the Bayliffs and 'Jurates of the ſame Iſle to chooſe another ſufficient man in his place, and to ſeize his 'Lands, goods, and Chattels into the Kings hands, and anſwer the meeſne profits of 'them. *Num.* 34. *dorſo.* There is an exact Array or Liſt of all the Captaines and men 'at Armes, and archers under their ſeverall commands for defence of the borders of 'Scotland, amounting in all to 4715. *Num.* 35. Thoſe of the Counties of *Notting-* 'ham, *Derby*, *Yorke*, were to goe to *Newcaſtle* upon *Tine*, at the Countries charges, 'and then to receive the Kings wages: and thoſe of *Weſtmerland*, *Cumberland* and 'Lancaſhire, to march to *Carlile* at the Counties charges, and then to receive the 'Kings wages; and that the Commanders, great men, and all the hoſt when they aſſem- 'bled ſhould lie and travell in the Land of *Scotland*, and not in the Marches of *Eng-* 'land. *Num.* 36. 37. A fit and truſty Clerke is appointed to pay the Souldiers wages 'by the adviſe and ſurvey of the Lords *Percy* and *Nevill*, and Merchants are ordered 'to returne moneys for the exploit, and to furniſh the King of *Scotland* with moneys 'ſufficient to maintaine twenty men at Armes. *Num.* 38. Becauſe Mr. *Richard Talbot* 'had diſcharged himſelfe of the government of *Barwicke*, the Lords in Parliament 'earneſtly intreated Sir *Walter Creake* to take upon him the cuſtody of *Barwicke*, and 'to certifie the Lords within a ſhort time, how many men at Armes and Archers 'would ſuffice to guard it, and whether he would accept of the charge or not; and 'if not, they would provide another. *Num.* 39. A Commiſſion is granted to Maſter 'Thomas *Wake* and others to muſter the Horſe and Foot arrayed for this expedition 'in *Yorkeſhire* and the other Counties, and to conduct them towards *Newcaſtle*. 'Num. 46. It is accorded and aſſented, that Writs ſhall be made to the arrayers of the 'Men of Armes, Hoblers, and Archers, in the County of *Oxford*, for the guarding of 'the Sea, for the Prior and Canons of *Burnaceſter*, to ſurceaſe their demand which 'they made to the ſaid Prior and Canons to finde a man at Armes and two Archers 'to make ſuch a guard at *Portſmouth*; and alſo for the payment of certaine moneys 'for this cauſe, untill they have other command from the King; by reaſon that the 'Prelates and other great men in the Parliament are informed, that all the poſſeſſions 'of their houſe will hardly ſuffice for their ſuſtenance, and that they cannot finde 'ſuch charge without very great oppreſſion of them and their houſe.

Loe here in theſe two Parliaments (the Rols whereof I have recited more largely, becauſe rare and memorable) all buſineſſes concerning the *Warres*, *Militia* and *Array* both by Land and Sea, were particularly conſulted of, ordered, and determined in and by the Parliament onely; in a farre more ample manner then this preſent Parliament at firſt petitioned, deſired they ſhould have been ordered and ſetled now.

In the Parliament rolls 14 E. 3. Num. 19. *Certaine men are appointed to guard the Iſlands and Sea-coaſts againſt the enemies.* Num. 42. *The Lord Mowbray is appointed keeper of the Town of Barwicke.* Num. 53 54 55. *&c. Commiſſions of Array in ſeverall Counties are made by Parliament to the Earle of Angoyes and others, for defence of the Kingdome.*

In the Parliament of 50 E. 3. Num. 15. *A Commiſſion is granted in Parliament to*

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the Lord Percy and others, to appoint able persons for defence of the Marches of the East-riding.

In the Parliament Roll of 1 *R.* 2. *Num.* 51. Because that the Lands of *Gascoigne*, 'Ireland, the Seigniory of *Artoyes*, and the Marches of *Scotland* are in perill to be 'lost through default of good Officers, the Commons petition, that it would please the 'Lords to ordaine good and sufficient ministers, which may be sent to governe in the 'same Lands in the most hasty manner that may be, by reason of the great need that 'requires it. And that all the chiefe guardians of the Ports and Castles upon the Sea, as 'Dover, Bannburgh, Carlile, and other Marches, may be put in the forme aforesaid: 'And that these Guardians of the Castles and keyes of the Realme may be sufficient 'men, who may forfeit their inheritance if any mischiefe shall happen by reason of 'them, which God forbid. And that in all other, sufficient persons of your Leiges 'be placed who may forfeit in the same manner for the salvation of the Realme. *To* 'which the King answers. The King willeth it, and will doe that which shall belong to 'him by the advise of the Lords of His continuall Councell.

' In 2 R. 2. Rot. Parliament. Num. 37. the Admiralty is disposed of by the Parlia-'ment: and Num. 39. a Schedule of Orders for the defence of the North sea, is confir-'med by the Parliament.

In the Parliament of 7 *&* 8 *H.* 4. *Num.* 26. The Parliament gave power to the Merchants to name two meet persons to be Admirals, to guard the Seas.

In the Parliament rolls of 2 *R.* 2. *pars* 2. *Num.* 37. The Commons supplicate, how 'the enemies of *France*, with great Armies, and many Vessels of warre have been con-'tinually and yet are in the Northerne parts, and namely about the coasts of *Scar-'borrough*, which Towne is dangerously seated upon the Sea, open to the assaults of 'the said enemies, and that the people of the said Towne had within two yeeres last 'past paid above one thousand pound ransome to the said enemies, and yet were de-'stroyed and carried prisoners into *Boloigne* and other places, where they were yet 'kept prisoners, and that the Towne was upon the point to be burned and destroyed, 'and all the coast about it in short time, if hasty remedy were not provided. That 'therefore it would please the King and his most sage Councell, considering the great 'dammages and perils the said Towne and coasts about it had sustained, and were yet 'apparently like to sustaine, to ordaine and assigne certaine Vessels of warre upon the 'said coasts, to guard them against the malice and power of the said enemies; and 'that during the warres, for saving of the said Towne, and the Kings Castle there 'situate, and all the Country about it. *The Answer is*: This matter is in part tou-'ched by the Merchants of the said coast which are at this Parliament, and by their 'advise and others who are to passe their Merchandize in these Marches by Sea, 'remedy hath beene ordained in such sort as the Earle of *Northumberland* and the 'Major of *London*, who were assigned in Parliament to treat of this businesse know 'more fully to declare.

In the Parliament of 6 *R.* 2. *pars* 2. *Num.* 11. The Bishop of *Norwich* offered be-'fore the King and Lords, that if the King would grant him the quindisme and 'disme of the Laity and Clergy; and the 6 pound and 2 shillings on the Tonne of 'Wine, lately granted to the King for the safeguard of the Sea; that he would with-'in 20 daies after the receipt of the last payment, transport into *France* 3000 Archers 'well armed and mounted for the ayd of *Gaunt*; and would defray all the charges

'of shipping them: And that if he might have the attendance of the West-Admirall, 'he would finde on the Sea for the safeguard of it, betweene this and Michaelmas 'next, ten great ships, and ten Barges armed; in which besides Marriners necessary, 'he would finde at least 500 fighting men for the said terme.

In the Parliament of 15 *R.* 3. *Num.* 15. It is to be remembred, that the Commons 'said in full Parliament, that if a treaty of peace or truce should be entertained 'betweene their Lord the King and his adversary of *France*, that they thought it ex- 'pedient and necessary, if it should please the King, that *Mounseur de Guyen*, because 'he is the most sufficient person of the realme, shall goe to the same Treaty. And the 'King said, that he liked it well, if it pleased the said Lord *de Guyen*: and thereupon '*Mounseur de Guyen* said, that he would with a very good will travell and doe any 'thing which might turne to the honour and profit of the King and of his realme.

In the Parliament of the 14 *H.* 6. *Num.* 10. The Kings grant of the custody of the 'Town and Castle of *Calice*, the Towne of *Risbanke*, the Castles of *Hamures*, *Marke*, '*Oye*, *Stangate*, *Bavelingham*, and of the Castle and Dominion of *Guynes* in *Picardy*, 'to be made to *Humfrey* Duke of *Gloceſter* his unkle, in the presence of the Lords spi- 'rituall and temporall then being in the present Parliament, was on the 29 day of *O*- '*ctober* read before them: which being understood, and mature deliberation taken 'thereupon, the severall reasons of the said Lord being heard, it was at last by their 'assent and consent agreed and ordered, that the said Duke should have the custody of 'the said Towne, Castles, and premises, to the end of nine yeeres then next ensuing, 'which Charter was subscribed by all the Lords there present.

In the Parliament of 31 *H.* 6. *Num.* 41. *pro custodia Maris, it was enacted:* For as 'much as the King, considering that as well divers His Clergy men of this his realm 'inhabiting nigh the coast of the Sea, and others His Subjects using the Trade of 'Merchandises, have been oftentimes grievously imprisoned, distressed, put to great 'sufferances and ransomes; and their Ships, Vessels, and Merchandises of great value 'taken upon the Sea by his enemies; and also Merchant strangers, being under his 'leageance, amity, safegard, or safe conduct upon the Sea, have been robbed and spoy- 'led, against the forme and contents of such truces, and safe conducts signed; His 'Highnesse willing and intending sufficiently to provide for the remedy of such in- 'conveniences, and to eschew and avoyd all such robberies and dispoylers, HATH 'BY THE ADVICE AND ASSENT OF THE LORDS SPI- 'RITUALL AND TEMPORALL in his high Court of Parliament 'assembled, desired certaine great Lords of this realme, that is to say, *Richard* Earle 'of *Salisbury*, *John* Earle of *Shrewsbury*, *John* Earle of *Worceſter*, *James* Earle of *Wilt*- '*shire*, and *Iohn* Lord *Sturton* with great Navies of Ships and people defensible in 'great number purveyed of abiliments of warre, to intend with all diligence to 'their possibility the safeguard and keeping of the Sea. For which cause the subsi- 'dies of Tonnage and Poundage granted to the King for his naturall life this Parlia- 'ment, that they might be applied to such uses and intent as they be granted the King 'BY THE ADVICE AND ASSENT OF THE LORDS SPIRI- 'TUALL AND TEMPORALL, AND COMMONS IN THIS 'PARLIAMENT ASSEMBLED, AND BY AUTHORITY OF 'THE SAME, were granted to the said Earles and Lord *Sturton*, and the survi- 'vers of them for three whole yeeres; with power for them to appoint Collectors

'to

'to receive and collect them in every Port, without rendering any account; so as 'they kept the covenants and endentures made between the King and them for the 'safegard of the Seas; with a proviso, that this Act during the three yeeres should not 'be prejudiciall to the custome of the Towne or Castle of *Calice* or *Risbbanke*, for 'the payment of the wages and arreares of the Souldiers there. And over that, if 'the goods of any of the Kings liege-people, or any of his friends, be found in any 'Vessell of the Kings enemies without any safe conduct, that then the said Earles 'and the Lord *Sturton* shall take and depart it among them and their retinue with-'out any impeachment, according to the Statute thereupon made.

In the Parliament of 33 *H.6. Num.* 27. the said Lords were discharged of the custody of the Sea by the Parliament, in these words: For as much as the Earles of '*Salisbury Shrewsbury*, and *Worcester*, and the Lord *Sturton* besought the Kings 'Highnesse in this present Parliament, that it might like his Highnes and Excellency 'of his Noble grace to have them clearely discharged of the keeping of the Sea; 'the King therefore and for other causes moving his Highnesse, BY THE ADVICE 'OF THE LORDS SPIRITUALL AND TEMPORALL IN THE SAID 'PARLIAMENT ASSEMBLED the 30 day of *July*, the 23 day of the same Par-'liament, admitted their desire, and would that the said Earles and Lord *Sturton*, or 'any other THAT HAD THE KEEPING OF THE SEA BY AN ACT 'MADE IN THE LAST PARLIAMENT begun and holden at *Redding*, 'and ended at *Westminster*, be from the 30 day of July fully discharged of the kee-'ping of the same, and that IT SHOULD BE ENACTED OF RECORD.

In the Parliament of 39 *H.6. Num.* 32. The King BY THE ADVICE OF THE 'LORDS SPIRITUALL AND TEMPORALL, AND COMMONS IN 'THIS PARLIAMENT ASSEMBLED, AND BY AUTHORITY THERE-'OF, ordained and established, that his deerest cosin *Richard* Duke of *Yorke* right-'full heire to the Countries of *England* and *France*, and of the Lordship and Land of '*Ireland*, have and take upon him the power and labour to ride into the parts of '*England* and *Wales*, where great rebellions, murders, riots, spoylings, executions, and 'oppressions be used, committed and attempted, to represse, subdue, and appease 'them. And also to resist the enemies of *France* and *Scotland* within the realme. And 'further granted, ordained, and established by the said advice and authority, that 'every Sheriffe, with the power and might of his Sheriwicke, and every Major, Bai-'liffe, Officer, Minister, and Subject of the said realme of *England* and of *Wales*, shall 'attend upon his said cousin for the said intent, as the case shall require; and to the 'same intent be ready at the command of his said cousin; and the same obey and 'performe, in like case as they ought to doe at his commandement after the course 'of the Lawes of *England*, and in *Wales* after the customes there, &c.

And to cite no more presidents in so cleare a case: in the Parliament of 21 *Iacobi* 'ch. 33. The Temporalty having granted three intire Subsidies, and three Fifteenes 'and tenths, to King *James*, towards the maintenance of the warres that might then 'suddenly insue upon the breach with *Spaine*, and more particularly for the defence 'of the realme of *England*, the securing of *Ireland*, the assurance of the states of the 'united Provinces, with the Kings friends and allies; and for the setting forth of 'the Navy-royall: did by that Act, for the better disbursing of the said ayd and 'mannaging that warre according to the Parliaments true intention, by that very

'Act

'Act wherein they gave the Subſidies, did eſpecially appoint eight Aldermen and 'other perſons of *London* Treaſurers to receive and iſſue the ſaid moneys; and ap- 'pointed ten Lords and Knights (particularly named in the Act) to be of the Kings 'Councell for the warre; by whoſe warrant (under five of their hands at leaſt) 'all the moneys they granted were to be iſſued and exported, for and towards 'the uſes expreſſed in the Act to ſuch perſon or perſons as the ſaid Councell of 'warre ſhould direct: and that both thoſe Treaſurers, and this Councell of warre, 'and all other perſons truſted with the receiving, iſſuing, beſtowing and imploying 'of thoſe moneys or any part thereof, their heires, executors and adminiſtrators, 'ſhould be anſwerable and accomptable for their doings and proceedings therein to 'the Commons in Parliament, when they ſhall be thereunto required by Warrant 'under the hand of the Speaker of the Houſe of Common for the time being; and 'thereby they and every of them according to their ſeverall places and imploy- 'ments ſhall give a true and ready declaration and account of their ſeverall reſpective 'dealings, doings and proceeding therein; and that the ſaid Commons in Parlia- 'ment ſhall have power by this Act, to heare and determine the ſaid account, and all 'things thereto appertaining; And withall they in this Act preſcribe a ſpeciall oath 'to the Treaſurers, *Not to iſſue out any moneys without the Warrant of the Councell of war* 'under their hands. And another oath to the Councell of warre, *To make no Warrant* 'for any moneys iſſued, which are given by this Act, but for ſome of thoſe ends which are 'expreſſed therein, and that to the beſt of their meanes they ſhould imploy the ſaid moneys 'accordingly; and that freely without requiring any reward or allowance whatſoever.

Which preſidents with others forementioned, made *His Majeſty* return this* *Anſwer to the Petition of the Lords and Commons* touching the Articles delivered February 2. 1641. *For the ſecuring you from all dangers or jealouſies of any; His Majeſty will be content to put in all the places both of* FORTS *and* MILITIA, *in the ſeverall Counties, ſuch perſons as both Houſes of Parliament ſhall either approve or recommend unto Him; ſo that you declare before unto His Majeſty the names of the perſons whom you approve or recommend; unleſſe ſuch perſons ſhall be named againſt whom He ſhall have juſt and unqueſtionable exception.* And thus much by way of ſupplement touching the Militia.

* An exact collection of all Remonſtrances, &c. p. 66, 67.

Concerning the *Parliaments intereſt and right in electing and removing the Officers of the realme, and the Kings meniall ſervants*, I ſhall onely adde theſe Precedents to the* forementioned.

Part. 1 p. 89, 90. part. 2. p. 41. to 74.

In the Parliament roll 8 E. 3. Num. 1. *Foure Biſhops, foure Earles, and foure Barons were aſſigned to the King, without whoſe conſent, or of foure of them, no great buſineſſe was to be tranſacted.*

14 E. 3. Num. 36. in the Parliament rolls, *The Parliament agreeth, that the Duke of Cornwall be Cuſtos of England during the Kings abſence in the warres of France.*

In the Parliament rolls of 1 *R.* 2. Num. 18. & 19. *The Commons requeſted firſt, that it would pleaſe the King to ordaine, and nominate to them now in this preſent Parliament, ſome ſufficient perſons of divers eſtates to be continually reſident of his counſell for the affaires of the King and of the realme, and to have the Officers of the King of ſuch perſons who beſt knew, and would and might moſt diligently travell for the redreſſe of the foreſaid miſchiefes, and the good government and ſalvation of the realme, ſo that the Commons may be clearely aſcertained of the names of thoſe Counſellors which ſhall be diſburſers and orderers*

'orderers of that which they ſhall grant for the warres, and thereby to have greater 'encouragement to doe to our Lord the King that which they have in charge con- 'cerning him, as is aforeſaid'. Alſo that it would pleaſe them to ordaine and nomi- 'nate in this Parliament the perſons which ſhall be about (or have the cuſtody) of 'the perſon of our Lord the King himſelfe, who is of ſuch tender age, and that 'thoſe perſons ſhall be of the moſt vertuous, honeſteſt, and ſufficienteſt of the 'Realm; ſo that our ſaid Lord, who is a perſon ſacred and anointed, be nobly go- 'verned, and brought up in good vertues and manners to the pleaſure of God, 'whereby all the Realme may be ſecured and amended; and that it be likewiſe or- 'dained, that our Lord the King and his houſe be governed with good mo'deration, 'and defray his expences onely out of the revenues of the Realme, and other rights 'and ſeigniories of his Crowne. And that all that which ſhall be granted to our 'Lord the King in maintenance of his wars, ſhall be applied and expended in the 'warres, and no part thereof otherwiſe, in aid and diſcharge of his ſaid com- 'monaltie.

In the Parliament of 11. *Richard* 2. *Num.* 23. 'The Commons pray, That no 'perſon, of what ſtate or condition he be, ſhould meddle with any manner of go- 'vernance about the perſon of our Lord the King, nor with the buſineſſes of the 'Realm, nor yet to councell our Lord the King, but thoſe Lords which are aſſigned 'and ordained in this preſent Parliament, if it be not by ordinance of the conti- 'nuall Councell, and by aſſent of our Lord the King, upon grievous paine. And 'the ſame Lords, which ſhall bee about the perſon of our Lord the King and 'of his Councell, ſhall cauſe to remove all the perſons which they think fit to re- 'move in the houſhold of our Lord the King, without ſhewing favour to any, and 'to put others in their places, whom they ſhall think ſufficient and vertuous. And 'that the ſaid Lords of the Councell be charged to keep and ſuſtain the eſtate of 'our Lord the King in its regalty, and to doe and uſe that which may turne to the 'honour and profit of our Lord the King and of his Realme to their power, ac- 'cording to the form of the Oath contained in a Schedule made in this preſent Par- 'liament annexed hereunto; to the intent that it may be notoriouſly known tho- 'rowout all the Realme, that good and ſufficient Councell is about the perſon of 'our Lord the King, to the comfort of all his Commons, and firme aſſurance and 'eſtabliſhment of the Realme aforeſaid; the which Oath was made in forme enſu- 'ing. You ſhall ſwear, That you will not aſſent, nor yet ſuffer, as much as in you 'lieth, That any Judgement, Statute, or Ordinance made or given in this preſent 'Parliament be any way annulled, reverſed, or repealed in any time to come; and 'moreover, That you ſhall keep the good Laws and uſages of the Realme afore theſe 'times made and uſed; and ſhall firmely keep, and cauſe to be kept, good peace, 'quiet, and tranquillity in the Realme according to your power, without diſturbing 'them in any manner. So helpe me God and his Saints. *The Anſwer.* As to 'the firſt point of this Article, the King wils it: And as to the ſecond point, If there 'be any Lord of the Councell, or other Lord of the Realme, which will informe 'the King, That he hath any perſon about him not ſufficient, nor honeſt, he wils, 'that it being proved, he ſhall be ouſted and removed, and another ſufficient, by 'his advice, put in his place.

In the Parliament of 5. *Henry* 4. *Num.* 16. 'Upon certain prayers and requeſts 'made

'made before by the Commons, divers times touching the removing of divers per-
'ſons, as well aliens and others, by reaſon of divers deſtructions by them moved,
'and for certaine Articles appointed by the Lords upon the charge given to them
'by our Lord the King in Parliament, and by the ſaid Lords it was ſpecially ac-
'corded, That four perſons, to wit, the Kings Confeſſor, the Abbot of *Done*, Ma-
'ſter *Richard Derham*, and *Croſſeby* of the Chamber, ſhall be quite ouſted and voi-
'ded out of the Kings houſe; whereupon the ninth of February, the ſaid Confeſ-
'ſor, Maſter *Richard*, and *Croſſeby* came before the King and Lords in Parliament,
'and there the King in excuſing the ſaid four perſons ſaid openly, that he knew not
'by them any cauſe or occaſion in ſpeciall for which they ought to bee removed
'from his houſhold; notwithſtanding our ſaid Lord the King well conſidered,
Nota. 'that what the ſaid Lords and Commons ſhall do or ordaine, was for the good of
'him and of his Realme, and therefore he would conforme himſelfe to their inten-
'tions, and did well agree to the ſaid Ordinance, which charged the ſaid Confeſſor,
'Maſter *Richard*, and *Croſſeby* to avoid his ſaid Court, and like charge ſhould have
'beene given to the ſaid Abbot, had he been preſent. And our Lord the King ſaid
'further, That he would doe the like with any other which was about his royall
'Perſon, if he was in hatred or indignation with his people. *And Numb.* 37. 10
'the end that good and juſt government and remedy may bee made of divers com-
'plaints, grievances, and miſchiefs ſhewed to our Lord the King in this Parliament;
'our Lord the King, to the honour of God, and upon the great inſtances and re-
'queſts to him divers times made in this Parliament by the Commons of his Realm,
'for the eaſe and comfort of all his Realme, hath ordained certain Lords and others
'underwritten to be of his great and continuall Councell, to wit, the Archbiſhop
'of *Canterbury*, the Biſhop of *Lincolne* Chancellour of *England*, the Biſhops of
'*Rocheſter*, *Wincheſter*, *Bath*, and *Bangor*, the Duke of *Yorke*, the Earles of *Som*
'*merſet* and *Weſtmerland*, the Lord *Roos* Treaſurer of *England*, the Keeper of the
'Great Seale, the Lord *Berkley*, the Lord *Willoughby*, the Lord *Furnevall*, the Lord
'*Lovell*, Mounſier *Pierce Courtney*, Maſter *Hugh Waterton*, Maſter *John Cheyne*, Ma-
'ſter *Arnald Savage*, *John Northbury*, *John Doreward*, *John Cawſon*.

In the Parliament of 7. & 8. *Henry* 4. *Numb.* 31. 'The 22. day of May, the
'Commons came before the King and his Lords in Parliament, and then *John Ti-*
'*betot*, their Speaker, reheaſed, how they had prayed the King in the beginning of the
'Parliament, and after, to increaſe the number of his Councell for the better go-
'vernment of the Realme, and prayed the King to put it in execution; and further
'rehearſed how that the Archbiſhop of *Canterbury* had reported to them, That the
'King would be counſelled by the moſt ſage Lords of the Realme, the which ought
'to have the ſurvey of all that which ſhall be done for the good government of this
'Realme, which thing the King agreed to doe and rehearſed with his own mouth,
'That it was his entire will. And thereupon a Bill made by the King himſelfe, by
'his own will was delivered, containing the names of the Lords which ſhall be of
'his Councell, the tenour of which Bill enſueth. It is to bee remembred that our
'Lord the King, conſidering the great labours, occupations, and diligence which he
'ought neceſſarily to imploy about the good government of his Realme, and other
'his poſſeſſions, as well on this ſide the Sea as beyond it. Firſt of all for the preſer-
'vation of our Lord the King, and of his Crowne, and that the revenues of the

'ſame

'same may be the better collected to his profit and increase, as much as a man may 'justly doe, to the end that he may the better sustaine his honourable estate. And 'secondly, for the confirmation of the Lawes and Statutes of the Realme, to the 'end that equall right may be done to every one, as well poor as rich; Our Lord the 'King, of his proper and good will, desireus to be supported in the foresaid cau-'ses, because that he cannot attend thereunto in proper person so much as he would, 'for the great love and good affiance which he hath among others, in the most re-'verend Fathers in God, the Archbishop of *Canterbury*, the Bishops of *Win-'chester* and *Exceter*, the Duke of *Yorke*, the Earle of *Somerset*, the Lord 'Roos, the Lord *Burnet*, the Lord *Lovell*, the Lord *Willoughbie*, the Chancellour, 'Treasurer, and Keeper of the privie Seale, the Steward and Chamberlaine, Master 'Hugh Waterton, Master *John Cheyney*, and Master *Arnald Savage*, hath chosen and 'charged them to be of his counsell, praying and commanding them, that in all 'the foresaid causes they will put to their intire diligences for the profit of our said 'Lord the King, and likewise for the confirmation of the Laws and Statutes afore-'said'.

In the Parliament of 2. *Henry* 6. *num.* 15. *After divers speciall requests of the Commons of the Realme, being in the present Parliament, made to my Lord of* Gloucester *Commissary of the King, and to other Lords Spirituall and Temporall there, for to have notice and consuance of the persons assigned and elected to be of the Kings Councell, to their great ease and consolation: By advice and assent of all the Lords Spirituall and Temporall aforesaid, were elected and named certaine persons, as well spirituall and temporall, to be Councellours assistant to the governance of the Realm, whose names here ensue; The Duke of* Gloucester, *the Archbishop of* Canterbury, *the Bishops of* London, Winchester, Norwich, Worcester, *the Chancellour, Treasurer, and Keeper of the privie Seale, the Duke of* Exceter, *the Earle of* March, *the Earle of* Warwick, *the Earle Marshall, the Earle of* Northumberland, *the Earle of* Westmerland, *the Lord* Cromwell, *the Lord* Fitz-Hugh, *the Lord* Bourchier, *the Lord* Scroop, *Master* Walter Hungerford, *Master* John Tiptoff, Thomas Chaucer, William Allington.

In the Parliament of 29. *Henry* 6. *num.* 16. *Upon the Petition of the Commons against divers Lords, Bishops, Knights, Esquires, and others, to the number of* 29. *who mis-behaved themselves about the royall Person of the King, and in other places, by whose only meanes it was suggested, the Kings prisions had been greatly diminished, his Laws not executed, the peace of the Realm not observed, to the great hurt and trouble of the liege people of the Realm, and likely subversion of the same, of which misbehaviour, universall noise and clamour was openly received thorowout all the Realme, upon the same persons specified in the Petition; all of them except the Lords and some few others, without further evidence against them, were by the King now removed from his presence and Court for a whole yeeres space, within which time any man that could and would object against any of them, should be patiently heard and intended.*

These few fresh Presidents added to the precedent, and to such forraign examples of this nature cited in the Appendix, will abundantly cleare the Parliaments right and Kingdoms interest in nominating, placing, and displacing the great Officers of the Kingdom, and in regulating the Kings own meniall servants in some cases, when they either corrupt or mis-counsell him. And thus much touching the unhappy differences between the King and Parliament, concerning matters of his own royall Prerogative.

The Parliaments Right and Iurisdiction to impose Taxes and Contributions on the Subjects for the necessary defence of the Realm, Laws, Liberties without the King, in case of the Kings wilfull absence from, and taking up Arms against the Parliament and Kingdom, briefly vindicated from the calumnies against it.

THe severall grand Objections of consequence made by the King and others against the Parliaments pretended usurpations upon the just Rights and Prerogatives of the Crowne, being fully examined and refuted in the Premises, so far (I hope) as to satisfie all ingenuous men, in point of *Divinity, Policy, Law, Reason, Conscience.* I shall next proceed to the remaining materiall Accusations which concerne the Subjects onely, in regard of *Property* and *Liberty*: wherein I will contract my *Discourse* into a narrow compasse; partly becaus the debate of the fore-going Differences between the Kings Prerogative and the Parliaments Soveraigne Jurisdiction, hath in some sort over-ruled the Controversies betwixt the Subjects and both Houses, representing them: partly becaus these accusations are not so universally insisted on, as the former which concerne the King; the justnesse of them being generally acknowledged, willingly submitted to by most, except such, who calumniate and traduce them, either out of *covetousnesse* onely to save their Purses, or from a *groundlesse Malignity* against the Parliament, or out of a consciousnesse of their owne Delinquencies, subjecting them to the Parliaments impartiall Justice, or out of some particular interests which concern them in their *gains, honours, preferments*, or such who by their restraints for not paying Parliamentary Assessements, hope to save their purses for the present; or to gaine favour and preferment by it for the future. If these private sinister ends were once laid by, this second sort of accusations would speedily vanish, especially with men of publike spirits, who prefer the Common-weale before their owne particular interests.

Object. 6. See the Kings Declarations and Proclamations against this and other Assessements.

The first of these Cavillatory Objections against the Parliaments proceedings is, *That both Houses, without the Kings Royall Assent, have contrary to* Magna Charta, the Petition of Right, the Statutes *De Tallagio non concedendo*, and other Acts, *by their Ordinances onely imposed late Taxes on the Subjects, amounting to the twentieth part of their estates, and since that monethly or weekly Assessements, to maintaine a war against the King; a grand incroachment on the peoples Properties, contrary to all Law and Justice.*

Answer.

This Objection seems very plausible and cordiall to covetous Earth-worms, being politikely contrived to *Court* the close-handed niggardly party, by those who are guiltiest in themselves of that they thus object against others. But it will easily receive an answer, as to the Parliament, and recoyle with infinite disadvantage on those that make it.

First,

Firſt then I anſwer, That the Parliament is the abſolute Soveraigne power within the Realme, not ſubject to, or obliged by the letter, or intendment of any Laws, being in truth the ſole Law-maker, and having an abſolute Soveraignty over the Laws themſelves (yea, over *Magna Charta*, and all other objected Acts) to repeale, alter, determine and ſuſpend them when there is cauſe, as is undeniable by its altering the very common Law in many caſes, by repealing, changing many old Statute Lawes, and enacting new ones every Seſſions as there is occaſion, for the publike ſafety and defence. This the practice of all Parliaments in all ages (yea the conſtant courſe of all Parliaments and Aſſemblies of the Eſtates in all forraigne Kingdoms too) abundantly manifeſts. The Parliament therefore never intended by all or any of theſe objected Acts, to binde its owne hands, but onely the Kings and his Miniſters, with inferiour Courts of Juſtice, neither is the Parliament within the letter, words, or meaning of them; therefore not obliged by them.

2. The King, with his Officers, Judges, and inferiour Courts of Juſtice only are included, and the Parliament, is directly excluded out of the very letter and meaning of all theſe Acts; as is apparent. Firſt in generall, from the occaſion of enacting all theſe Laws, which was not any complaints made to the King of any illegall taxes, impriſonments, or proceedings of our Parliaments, to the oppreſſion of the people; but onely the great complaints of the people and Parliament againſt the illegall taxes, impoſitions, impriſonments, and oppreſſions of the Subject by the King, his Officers, Judges, and inferiour Courts of Juſtice, as all our Hiſtories, with the Prefaces and words of the Acts themſelves atteſt; to redreſſe which grievances alone theſe Lawes were made by the Parliaments and peoples earneſt ſolicitations, much againſt the Kings good will. The Parliament then (who would never ſolicit the making of a Law againſt, or to reſtrain it ſelfe) being cleare out of the orignall ground and miſchiefe of enacting theſe Lawes, and the King, with his Miniſters, and inferiour Courts only within them; they can no way extend to the Parliament, but to them alone.

See Sir *Edward Cookes* Inſtitut. on *Mag. Charta*, and theſe Laws *Articuli ſuper Chartas, Confirmatio Chartarum*, part. 1.

3. The Parliament, ever ſince the making of theſe Acts, hath alwayes conſtantly enjoyed an abſolute right and power, without the leaſt diſpute, of granting and impoſing on the Subjects whatſoever Taxes, Subſidies, Aids, Confiſcations of Goods, or reſtraint of Liberty by temporall or perpetuall impriſonment, it thought meet and neceſſary for the publike defence, ſafety, and tranquility of the Realm, as the ſeverall Taxes, Subſidies, and Poll-monies granted by them in all ages, the many Statutes enjoyning confiſcation of Lands, Goods, corporall puniſhments, baniſhments, temporary or perpetuall impriſonments, for divers things not puniſhable, nor criminall by the Common Law, or when *Magna Charta*, and the ancient Statutes in purſuance of it were firſt enacted, abundantly evidence paſt all contradiction: none of all which the King himſelfe, his Officers, Judges, or inferiour Courts of Juſtice can doe, being reſtrained by the objected Acts. Therefore it is altogether irrefragable, that the Parliament and Houſes are neither within the words or intentions of theſe Acts, nor any wayes limited or reſtrained by them, but left as free in theſe particulars (in order to the publike good and ſafety) as if thoſe Acts had never beene made, though the King, with all other Courts, Officers, Subjects, remaine obliged by them.

4. This is evident by examination of the particular Statutes objected: The first and principall of all the rest is *Magna Charta, cap.* 29. But the very words of this Law: 'Nor We shall not passe upon him, nor condemne him, but by the lawfull 'judgement of his Peeres, or by the Law of the Land: We shall deny nor 'deferre to no man either Justice or Right, compared with the Preface to, and first 'Chapter of it, *Henry*, &c. know ye that We, &c. out of meere and free will, have 'given and granted to all Archbishops, Bishops, Erles Barons, and to all free men 'of this our Realm of *England*, and by this our present Charter have confirmed 'FOR US AND OUR HEIRS FOR EVERMORE, these liberties un-'derwritten, to have and to hold to them, and their Heirs, OF US AND OUR 'HEIRS FOR EVERMORE, &c. (together with the whole tenour and title of 'this Charter, and the two last Chapters of it;) All those customs, and liberties 'aforesaid which we have granted to be holden within our Realme, as much AS 'APPERTAINETH TO US AND OUR HEIRS, WE SHALL OB-'SERVE. And for this our gift and grant of those Liberties, &c. our Subjects have 'given us the fifteenth part of all their moveables: And We have granted to them on 'the other part, that NEITHER, WE NOR OUR HEIRS shall procure or 'doe any thing, whereby the Liberties in this Charter contained shall be infringed 'or broken; We confirme and make strong all the same FOR US AND OUR 'HEIRS PERPETUALLY. (not the Parliament) All these, I say, infallibly demonstrate, that this Statute of *Magna Charta*, did never extend unto the Parliament to restraine its hands or power, but onely to the King, his Heirs, Officers, Courts of Justice, and particular subjects. So that the Parliaments imprisoning of Malignants, imposing Taxes for the necessary defence of the Realm, and seizing mens goods, or imprisoning their persons for non-payment of it, is no wayes within the words or intent of *Magna Charta*, as Royallists and Malignants ignorantly clamour; but the Kings, his Officers, Councellours, and Cavalliers proceedings of this nature are cleerly most direct violations of this Law. And that which puts this past dispute are the severall Statutes of 25. *Edward* 3. *cap.* 4. Statute 5. 37. *Edward* 3. *cap.* 18. 38 *Edward* 3. *cap.* 9. 42. *Edward* 3. *cap.* 3. 17. *Richard* 2. *cap.* 6. and the Petition of right it self, all which expresly resolve, that this very objected Law of *Magna Charta, extends onely to the King himselfe, his Privy Councell, Judges, Justices, Officers, and inferiour Courts of Justice*, but not unto the supream Court of Parliament, which no man (for ought I finde) ever yet held, to be absolutely obliged by it, before the Kings late recesse from Parliament.

Rastall Accusation 5, 6, 7, 8.

The next Statute is that of 34. *Edward* 1. *cap.* 1. *No tallage nor aid shall be taken or leavied* BY US AND OUR HEIRS (not the Parliament) in our Realme, *without the good will and assent of the Archbishops, Bishops, Earls, Barons, Knights, Burgesses, and other free men of the Land*; which the Statute of * 25. *Edward* 1. thus explains, *But by the common consent of the Realme.* The Statute of 14. *Edward* 3. *cap.* 21. and Statute 2. *cap* 1. thus, *If it be not by common consent of the Prelates, Earles, Barons, and other great men and Commons of our said Realme of England*, AND THAT IN PARLIAMENT. The Statute of 25. *Edward* the third, *cap.* 8. thus. If it be not BY COMMON CONSENT AND GRANT IN PARLIAMENT. The Statute of 36. *Edward* the third,

Rastall Tenths, Taxes, &c. 1.

cap.

cap. 11. *thus, That no Subsidie nor other charge is set nor granted upon the Woolls by the Merchants, nor by* NONE OTHER *from henceforth* WITHOUT THE ASSENT OF THE PARLIAMENT. The Statute of 45 *Edward* 3. *cap.* 4. *thus, It is accorded and stablished, That no imposition or charge shall be put upon Woolls, Woollfels, or Leather, other than the custome and subsidie granted to the King,* WITHOUT THE ASSENT OF THE PARLIAMENT, *and if any be, it shall be repealed and holden for none.* And the Petition of Right, 3. *Caroli*, thus, *By which Statutes, and other good Statutes of this Realm, your Subjects have inherited this freedom, that they should not be compelled to contribute any Taxe, Tallage, Custome, Aide, or other like charge, not set* BY COMMON CONSENT IN PARLIAMENT. Now it is as evident as the noonday sunshine, that these Acts onely extend to the King, his Heirs, Councell, Officers, inferiour Courts, and private Subjects onely, and that the Parliament is precisely excepted out of the very intent and letter of them all, having free power to impose on the Subjects what Aids, Taxes, Tallages, Customes, and Subsidies they shall deem meet. by the expresse provision of all these Laws, concerning the granting and imposing of Subsidies, Therefore by the direct resolution of these Acts, the King, his Councellors present contributions, assessements, and ransoms imposed on the Subjects are illegall against the letter and provision of all these Acts; but the Parliaments and Houses lawfull, approved and confirmed by them.

True, will Royallists and Malignants answer (who have no other evasion left but this) If the King were present in Parliament, and consenting to these contributions and taxes of the twentieth part, there were no doubt of what you alleage; but because the King is absent, and not only dissassents to, but prohibits the payment of this or any Parliamentary Assessements by his Proclamations, therefore they are illegall and against these Laws. *Object.*

1 To which I answer, First, that the King by his Oath, duty, the ancient custom and Law of the land ought of right to be alwayes present with his Parliament (as he is now in point of Law) and not to depart from it but in cases of urgent necessity with the Houses free consents, and then must leave * Commissioners, or a Deputy to supply his absence. This is not onely confessed, but proved by a Booke lately printed at *Oxford* 1642. (with the Kings approbation or permission) intituled, *No Parliament without a King, pag.* 5. to 16. where by sundry presidents in all Kings Reignes it is manifested, *That Kings were, and ought to be present in their Parliaments,* which I have *formerly cleared. If then the King, contrary to these Presidents, his Oath, Duty, the Laws and Customs of the Realme, the practice of all his Progenitors, the rules of nature (which prohibit the head to separate it selfe from the body) and will (through the advice of malignant Councellours) withdraw himselfe from his Parliament; yea, from such a Parliament as himselfe by *a speciall Act hath made in some sort perpetuall, at the Houses pleasure*; and raise an Army of Papists, Delinquents, Malignants, and such like against it, and that purposely to dissolve it, contrary to this very Law of his for its continuance: why this illegall tortious act of his (paralleld in no age) should nullifie the Parliament, or any way invalid its Impositions or Proceedings, for their own, the Kingdoms, Peoples, and Religions preservation (all now indangered) transcends any reasonable mans capacity to apprehend. *Answer.*

*See 8. H. 5. c. 1

*Part 1. pag. 42, 43, 44.

2 The right and power of granting, imposing, assenting unto Assessements,

Taxes, Subsidies, and such like publique charges in Parliament, for the publique safety, rests wholly in the Commons and Lords, not King; and is their owne free act alone, depending no waies on the Kings assent, nor necessarily requiring his personall presence in Parliament.

This is evident: First by the expresse letter of the forecited Acts; *No Subsidy, Tax, Ayde, Talleage, or Custome shall be set, granted, taken or leavied, but by common consent and grant of the Prelates, Earles, Barons, Knights, Burgesses, and other free men of the Realme in Parliament; or without the assent of the Parliament: so that their* grant *and assent in Parliament, (not the Kings) is the onely thing that makes them legall and binding to the subject.* Now both Houses have granted, ordered, and assented to this *Assessment, exceeding not the twentieth part of mens estates*; and given order for the leavying of it, and that for the Parliaments, Kingdomes, religions, necessary defence and preservation. Therefore it is obligatory and legall, though the King himselfe consent not, or dissassent thereto, (especially as the present condition of things stands) even by the very letter of these acts.

* See part. 1. p. 47, 48, 49, 50.

Secondly, this is apparent by the letter of all our publique Acts, for the granting of Subsidies, Ayds, Tenths, Fifteenes, Taxes, Customes, Tonnage, Poundage, or any such like impositions in and by Parliament, either by the Temporalty or Clergy: which Acts runne usually in this manner. * *The Commons of this Realme* HAVE GRANTED FOR DEFENCE OF THE SAID REALME *and especially for the safegard and custody of the Sea, a Subsidy, a Subsidie called Tonnage, &c.* * *The Prelates, Earles, Barons, and all the Commons of the Realme willingly and with one assent* HAVE GRANTED *the ninth Lambe, ninth sheafe, and ninth fleece, &c. And of Cities and Burroughs the ninth part of all their goods and chattels, &c: in aide of the good keeping the Realme as well by Land as by Sea, &c.* * *We your poore Commons desire your excellent Majesty willingly to accept and receive these* OUR POORE GRANTS *hereafter following, as* GRANTED *of free hearts and good wils, as the first-fruits of our good wils and hearts, &c. by the advice and Assent of the Lords spirituall and temporall,* GIVE & GRANT, *for the defence of your realm, and the keeping and safegard of the seas, &c. one Subsidy called Tonnage, &c.* * *The Prelates and Clergy, &c. as a speciall and significant testimony of their loyall affection, &c. with one affection and uniforme consent* HAVE GIVEN & GRANTED *foure whole and intire Subsidies.* * *We your Commons assembled in your high Court of Parliament, humbly present your Majesty with the* FREE & CHEERFULL GIFT *of two intire Subsidies, &c.* All Subsidies and Taxes then being the free gift of the Commons, Clergy and Peeres in Parliament, and that onely for the defence of the Kingdome by sea and land; it is infallible, that they do, may and can oblige themselves, and those they represent, to pay such publike Taxes, to this end, without the Kings concurrence.

* 12 E. 4. c. 3.
* 14 E. 3. c. 20. The King then absent in *France.*
* 1 E. 6. c. 13. 1 Mar. 1 E. c. 19. 1 Jac. c. 33.
* 21 Jac. c. 32. 1. Care. c. 5.
* 1 Car. c. 6. 21. Jac. c. 33.

Thirdly, this is cleare by considering, that the Commons and Lords in Parliament have alwaies had: 1. An absolute right and power to grant or deny Taxes, Subsidies, aydes and assistance as they saw occasion. 2. To proportion the aydes and Subsidies granted. 3. To limit the certaine manner, waies, and times of paying and levying them; and the persons who shall either pay, assesse, collect, receive, or disburse them. 4. The ends and uses to which they should be imployed when leavied, debarring the King oft times (when they saw cause) of any power at all to receive or dispose of them, appointing Collectors, and Treasurers of their owne to receive

* See *Rastall.* Taxes, &c. throughout.

and

and iſſue them out againe, by the advice and directions of theſe, as themſelves preſcribed; for which I ſhall give you ſome few inſtances of note, in lieu of many more, that might be remembred. * *Anno* 1237. being the 21 yeere of *Henry the third*, *The Parliament after many conteſtations with the King for his fraud, oppreſſions, favouring of Aliens, &c. to the Kingdomes detriment; the King by Oath promiſing amendment, granted unto him the thirtieth part of all their moveables (excepting ready Money, Horſe, and Armour.) to be imployed for the Common wealth, and benefit of the Realme; with this condition often annexed, that the King ſhould leave the Counſell of Aliens, and onely uſe that of his naturall Subjects. And for more ſecurity it was ordained, that foure Knights of every Shiere, and one Clerke of the Kings in every ſeverall Shiere, ſhall upon their oathes collect, receive and deliver the ſaid Subſidy either into ſome Abbey or Caſtle, to be ſafely reſerved there, and diſpoſed of for the benefit of the King and Kingdome, by the view and counſell of the Earle* Warren *or others, when there ſhould be need: Or otherwiſe if the King failed in performance of His promiſes and grants, it ought to be faithfully reſtored and diſtributed to the Country whence it was collected.* * *In the* 11. *yeere of King Edward the* 2. *Anno* 1318. The Parliament (not daring to truſt this prodigall miſ-counſelled King with moneys) *inſtead of Subſides, granted him an aide of armed men againſt the Scots:* London *ſet forth* 200. Canturbury 40. Saint Albanes 10. *and ſo all other Burroughs and Cities according to their proportion, whereby a great Army was leavied.* The Parliaments of 14 E. 3. c. 20. 21. Star. 1. & Stat. 2. c. 1. 18 E. 3. Parliament 2 & 3. (forecited at large, part. 2. p. 8. 9) 31 *H.* 6. Num. 41. 21 *Jac.* c. 33. *particularly direct how the Subſidies granted ſhall be diſpoſed of by certaine Nobles and others, whom they nominate, and appoint Treaſurers to receive and iſſue them to the ends for which they granted them, preſcribing them an oath to iſſue none of them to other purpoſes, or in any other maner then they preſcribed.* Yea the Acts of former Parliaments, and this preſent concerning *Tonnage, Poundage, Polemoney, and Subſidies*, frequently do the like. Therefore the granting and diſpoſing of thoſe Taxes, Aydes, Subſidies rests wholly in the Commons, and Lords; and no waies on the King, who commonly deſires the Parliament to grant them.

* *Matth. Paris*, Hiſt. Angl. p. 420, 421, 562, 563. *Daniels* Hiſt. p. 157.

* *Walſingham.* Hiſt. Angl. p. 88. *Holinſhed, Graftan*, and *Daniel*, p. 211.

Fourthly, this is further evidenced, by the Kings uſuall anſwer and aſſent unto ſuch Bills as theſe: * *Le Roy remercy ſes Loaulx Subjects accept* LOUR BENEVOLENCE, *& auxy le veult*; taking it wholly as a free grant from them; which aſſent in this caſe is rather formall then ſubſtantiall, it being the Commons and Lords owne conſent only to Bils of this nature, not the Kings, that make the Taxes and Impoſitions binding as the forecited *Statutes*, *the Petition of Right* 3 *Caroli*; * *Forteſcue*, and our *Lawbookes* reſolve, and I have elſewhere manifeſted more at large. Therefore the want of the Kings aſſent, or diſaſſent to the Parliaments preſent aſſeſſement for the Kingdomes neceſſary defence in the preſent extremity (when the King not onely wilfully abſents himſelfe from, but hath raiſed Armes againſt the Parliament) is not materiall nor ſimply neceſſary in point of Law, though uſually requiſite and neceſſary for formality ſake, at other ſeaſons, to compleat ſuch Acts; ſince *Sepenumero Neceſſitas vincit legem, & quod neceſſarium eſt, licitum eſt* (as this aſſeſſement now is) though all formalities be not punctually obſerved; as is reſolved in *Dormers* caſe. Cooke l. 5. f. 40. b.

* Mr. *Hackwels* manner of paſſing Bils, ſect. 8. p. 78.

* See part. 1. p. 37, 38, 39, 46, to 53.

Fiftly, it is *undeniable, that the Knights, Citizens, Burgeſſes, and Commons in Parliament, elected by the ſuffrages of the ſeverall Counties, Cities, and Burroughs of* England, *doe*

* See part. 1. p. 39. 47.

do really and legally represent all the Commons; and the Lords and they the whole Realm, and all the people of England: *so that what ever Tax is imposed and assented to by them, or by both Houses onely without the King (who represents no man but Himselfe alone) is in point of Law imposed and assented to by all the Commons, and whole Realm of England,* (as the recitals in all our Statutes, and Law-bookes resolve) though the King assent not to it, If therefore (as our * *Law-books* clearely resolve without dispute, and the experience of all Corporations, Parishes, and Mannors evidenceth past contradiction) *all Ordinances and Bylaws made for the common good of Corporations, Parishioners, Tenants of a Mannor, and the like, by all or the greater part of the Corporations, Parishioners, Tenants, and Taxes imposed by them for the Common good (as repairing of Churches, High-waies, Bridges, reliefe of the poore, and the like) shall binde the rest: even in point of Law, without the Kings assent.* Then by the same, or better reason, the impositions and Taxes now laid upon the subjects by the assent and Ordinances of both Houses of Parliament, representing the whole Commons and Realme of *England* (who actually assent likewise to these Taxes and Assessements in and by them) must and ought in point of Law to oblige all the Subjects in this case of necessity, (at least as long as the Parliament continues sitting, and this their representation of them remains entire;) especially being for the necessary defence of the Parliament, Kingdome, Religion, all our lives, estates, liberties, lawes, against an invading Army of Papists and Malignants, in a case of extraordinary extremity. This I shall further cleare by some ancient and late judgements in point.

* *Fitzh.* Assise 413. *Auowry,* 74. Prescrip. 67. *Br.* Custom. 31. *Kitchin.* 45. 73. 80. Co. 5. Rep. 63. to 69. See *Rastal.* title Corporations.

* Judge *Crookes* argument against Shipmony. p. 24, 25

Mich. 14 Ed. 2. rot. 60. in the Kings Bench *William Heyborne* brought an Action 'of Trespasse against *William Keylow*, for entering his house and breaking his chests, 'and taking away 70 pounds in money; the Defendant pleading, Not guilty, the 'Jury found a speciall Verdict: that the Scots having entred the Bishopricke of '*Durham* with an Army, and making great burning and spoyles, thereupon the Com-'monalty of *Durham*, whereof the Plaintiffe was one, met together at *Durham*, and 'agreed to send some to compound with them for a certaine summe of money to de-'part the Country, and were all sworne to performe what compositions should be 'made, and to performe what Ordinance they should make in that behalfe; and that 'thereupon they compounded with the Scots for 1600 Markes. But because that 'was to be paid immediately, they all consented, that *William Keylow* the Defendant 'and others, should goe into every mans house to search what ready money was 'there, and to take it for the raising of that summe and that it should be suddenly re-'paid by the Communalty of *Durham*: And that thereupon the Defendant did en-'ter into the Plaintiffs house, and broke open the chest, and tooke the seventy pounds, 'which was paid accordingly towards that composition. And upon a Writ of 'Error in the Kings Bench, it was adjudged for the Defendant against the Plaintiffe, 'that the action did not lie, 'because he himselfe had agreed to this Ordinance, 'and was sworne to performe it, and that the Defendant did nothing but what 'he assented to by Oath; and therefore is accounted to doe nothing but by his 'consent, as a servant to him and the Commonalty of *Durham*; therefore he was 'no trespasser. Which case was agreed for good Law by all the *Judges, in the late Case of Ship-money* argued in the Exchequer Chamber; though neither King nor Parliament consented to this Taxe or Composition.

This

This is the Parliaments present case in effect: The King having raised an Army of Papists, Delinquents, Forraigners, Irish Rebels, disaffected Persons, and actually invading the Kingdom and Parliament with it; Hereupon the Parliament were inforced to raise an Army to defend themselves and the Realm against these Invasions; For maintenance whereof, they at first made use only of voluntary contributions and supplies; proceeding onely from the liberality of some private persons, best affected to the publike service; Which being exhausted, *May* 5. 1641. *The Lords and Commons considering what a solemne Covenant and Protestation themselves had made and taken, and the Subjects likewise throughout the Realm, to maintain and defend, as farre as lawfully they might* WITH THEIR LIVES, POWER AND ESTATES, *The true Reformed Protestant Religion, &c.* As also THE POWER AND PRIVILEDGES OF PARLIAMENT, THE LAWFULL RIGHTS AND LIBERTIES OF THE SUBJECT, *And every person that maketh this Protestation, in whatsoever he shall do in the lawfull pursuance of the same, &c.* as in the Protestation (made by both Houses consents when full.st: And considering that the whole Commons and Kingdoms assents were legally and actually included in what they assented in Parliament, for the necessary defence of the Realm, the Subjects, Parliaments Priviledges, Rights, and the Reformed Religion (all actually invaded, endangered) by an Ordinance of both Houses, without the Kings consent (then absent from, and in open hostilitie against them) impose a generall Assessment upon all the Subjects, NOT EXCEEDING THE TWENTIETH PART OF THEIR ESTATES; *And for non-payment prescribe a distresse, &c.* Why, this Assessment in this case of necessitie, being thus made by assent of both Houses (and so of all the Kingdom in them) in pursuance of this *Protestation*, should not as legally, yea more justly oblige every particular subject, though the King assented not thereto, as well as that agreement of the men of *Durham*, did oblige them even in point of Law, Justice, Conscience, transcends my capacitie to apprehend: and if the first Case be Law, as all the Judges then, and of late affirmed, the latter questionlesse must be much more Legall, and without exceptions, (a) *M.* 32. and 33. *Eliz.* in the Kings Bench, in the *Chamberlain of Londons case*, it was adjudged, *That an Ordinance made by the Common Councell of London only, that all Clothes should be brought to Blackwell-hall, to be there veiwed, searched, and measured, before they were sold, and that a penny should be paid for every Cloth for the Officer that did the same, and that six shillings eight pence should be forfeited for every Cloth, not brought thither and searched; was good to binde all within the Citie, and that an Action of Debt would lye at the Common Law, both for the duty, and forfeiture, because it was for the publike benefit of the City and Commun-Wealth,* (b) *M.* 38. *Eliz.* in the Common-Pleas, it was adjudged in *Clerks* Case; *That an Ordinance made by assent of the Burgesses of Saint Albanes, whereof the Plaintiffe was one, for assessing of a certain summe of Money upon every Inhabitant, for the erecting of Courts there (the Terme being then adjourned thither from London, by reason of the Plague) with a penalty to be levyed, by distresse, for non-payment of this Tax, was good to binde all the Inhabitants there, because it was for the publike good.* (c) *Mich.* 31. (a) *Cook* 5. *Report. fol.* 66. 68. (b) *Cook* 5. *Report. fol.* 62. (c) *Cook* 5. *Report. fol.* 62, 63.

and 32. *Eliz.* in the Kings Bench, *William Jefferies* Case, and *Pasch.* 41. *Eliz. Pagets Case*, it was resolved; *That the Church-Wardens with the greater part of the Parishioners assents, may lay a Taxe upon all the Parishioners, according to the quantitie of their Lands and Estates, or the number of Acres of Land they hold (the Taxe there was four pence an Acre for Marsh-Land, and two pence for Earable) for the necessary reparation of the Church; and that this shall binde all the Inhabitants, so as they may be Libelled against in the Spirituall Court for non-payment thereof, and no prohibition lieth.* The like hath been resolved in sundry other Cases. And, *by the Common-Law of England where by the breach of* (d) *Sea-Walls, the Country is, or may be surrounded, every one who hath Lands within the levell or danger, which may have benefit, or losse, by the inundation, may and shall be enforced to contribute towards the repair, and making up of the Sea-Walls, and a reasonable Taxe assessed by a Jury, or the Major-part shall binde all the rest, because it is both for their own private, and the common good.* If the Law be thus unquestionably adjudged in all these Cases, without the Kings assent, then much more must this Assessment imposed by both Houses be obligatory, in point of Law and Justice, though the King consented not thereto, since the Houses, and whole Kingdom consented to it, for their own defence and preservation.

(d) Register. fol. 127. Fitz. Natur. Brev. fol. 113. Cooke, l. 10. fol. 142.

Sixthly, This is a dutie inseparably incident by the Fundamentall Law, and originall compact of every Kingdom, Citie, Corporation, Company or Fraternitie of men in the World; that every Member of them should contribute proportionably upon all occasions (especially in Cases of imminent danger) toward the necessary charges, defence, and preservation of that Kingdom, Citie, Corporation, Company, or Fraternitie, of which he is a Member, without which contribution, they could be neither a Kingdom, Citie, Corporation, Company, Fraternitie, or have any continuance, or subsistence at all; Which Contributions are assessed by Parliaments in Kingdoms, by the Aldermen, or Common-Councell in Cities, by the Master and Assistants in Fraternities, and what the Major part concludes, still bindes the Residue, and the dissent of some (though the Major, or Master of the Company be one) shall be no obstacle to the rest. This all our Acts concerning Subsidies, Aydes, Tonnage and Poundage the daily practice and constant experience of every Kingdom, Citie, Corporation, Company, Fraternitie in the World, manifests past all contradictions; which being an indubitable veritie, I think no reasonable man can produce the least shadow of Law or Reason, why the Parliament representing the whole Body of the Kingdom, and being the supream Power, Counsell, in the Realm; bound both in Dutie and Conscience, to provide for its securitie, may not in this Case of extremitie legally impose this necessary Tax, for their own, the Kingdoms, Subjects, Laws, Religions preservations (of which they are the proper Judges, Gardians) and should not rather be credited herein then a private Cabinet Court-Counsell of persons disaffected to the Republike, who impose now farre greater Taxes on the Subjects, and plunder, spoyl, destroy them every where directly against the Law, of purpose to ruine both Parliament, Kingdom, Religion, Laws, Liberties, and Posteritie.

Seventhly, It is confessed by all, *That if the King be an Infant, Non-Compos, absent*

absent in Forraign remote parts, or detained prisoner by an Enemy, that the Kingdom or Parliament in all such Cases, may without the Kings actuall, personall assent, create a Protector or Regent of their own Election, and not only make Laws, but grant Subsidies, impose Taxes, and raise Forces for the Kingdoms necessary defence, as sundry domestick and forraign Presidents in the preceding (e) Parts, and Appendix evidence; And (f) *Hugo Grotius*, (g) *Junius Brutus*, with other Lawyers acknowledge as a thing beyond all dispute. Nay, if the King be of full age, and within the Realm, if a forraign enemy come to invade it, and the King neglect or refuse to set out a Navy, or raise any Forces to resist them, The Lords and Commons in such a Case of extremitie, may, (and are bound in Law and Conscience so to do) for their own, and the Kingdoms preservation, not only in and by Parliament, but without any Parliament at all (if it cannot be conveniently summoned) lawfully raise forces by Sea and Land, to encounter the Enemies, and impose Taxes and Contributions to this purpose on all the Subjects by common consent, with clauses of distresse and imprisonment in case of refusall, as I have elsewhere proved. And if in Case of invasion, even by the Common-Law of the *Realm*, any *Captains or Souldiers may lawfully enter into another mans ground and there encamp, muster, or build Forts to resist the Enemy, or pull down the Suburbs of a Citie, to preserve the Citie it self, when in danger to be fired or assaulted by an Enemy, without the speciall consent of King, Parliament, or the Owners of the Lands, or Houses, without* (h) *Trespasse or offence, because it is for the publike safetie, as our Law Books resolve;* Then much more may both Houses of Parliament, when the King hath through the advice of ill Councellors wilfully deserted them, refused to return to them, and raised an Army of Papists and Malignants against them and the Realm (now miserably sacked and wasted by them, as bad as by any forraign Enemies) both take up Arms, raise an Army, and impose Assessements and Contributions by Ordinances, unanimously voted by them, against which no Lover of his Country, or Religion, no nor yet the greatest Royallist, or Malignant, can with the least shadow of Law or Reason, justly except.

(e) *Part.* 1. p. 57 50. 99. 100, 101, 102 *part.* 2. p. 98, &c *Francis*, Then his Catalogue of Protectors, in *Holinshed*, p. 1073 &c

(f) *De Iure Belli & Pacis*, l. 1. c. 3 nu. 24. p. 69.

(g) *Vindiciæ contr. Tyrannos*, qu. 3, 4.

(h) 13. H 8. 16. 9. E. 4. 35 b. 8. E. 4 23 Br. *Custome* 145. *Trespas* 405. *Dyer.* 36.

Eightly, If they shall now demand what Presidents there are for this? I Answer: First, That the Parliament being the Soveraign Power and Counsell in the Realm, is not tyed to any Presidents, but hath power to make new Presidents, as well as new Laws, in new Cases and mischiefs; where there are no old Presidents, or vary from them though there be ancient ones, if better and fitter Presidents may be made; as every* Court of Justice likewise hath Power to give new Judgements, and make new Presidents in new Cases, and may sometimes swerve from old Presidents, where there were no ancient Presidents to guide them; even as Physitians invent new Medicines, Chyrurgions new Emplaisters for new Diseases, Ulcers, or where old Medicines and Balsomes, are inconvenient, or not so proper as new ones. And as men and women daily invent and use new Fashions at their pleasure, & Tradesmen new Manifactures without licence of King or Parliament, because they deem them better or more comely then the old. Secondly, I might demand of them, by what old domestick lawfull Presidents, His Majesties departure from the Parliament, His Levying Warre against it, His

* *Cook* 4. *Rep.* f. 93, 94. *Affo.* Title Presidents.

(i) See the Remonstrance of the rise and progresse of the Irish Rebellion and Romes Master-peece.

proclaiming many Members of it, Traytors, and now all of them Traytors and no Parliament; His unvoting of their Votes in Parliament, out of Parliament; His imposing of Taxes and Contributions in all Countries where His Forces are, beyond mens estates, and annuall revenues; His burning, sacking, pillaging, murdering, ruining, of His own Kingdom, Subjects, both by Sea and Land, and putting them out of His regall Protection; His raising of an Army of English, Irish, Scottish, French, and Germane Papists to maintain and settle the Protestant Religion among us, (which they have *plotted totally to extirpate*, as appears by their proceedings in *Ireland*, *England*, and the late plot discovered among the Archbishops Papers) and the like, are warranted? (which questions I doubt would put them to a *non-plus*, and silence them for eternitie:) yet to satisfie their importunitie, and stop their clamorous mouthes; I shall furnish them in brief, with some Presidents in point in all States, and Kingdoms of note in former, in latter times, and in our own Realm too; In all the civill warres between Kings and Subjects, in the *Romane* and *Germane* Empires, *France*, *Spain*, *Aragon*, *Castile*, *Hungary*, *Bohemia*, *Poland*, *Denmark*, *Scotland*, and other Kingdoms mentioned in the Appendix; They shall finde that the generall Assemblies of these States, Lords & Commons, without their Emperors or Kings assents, did both raise Forces, impose Taxes, yea, and sease on the Imperiall and Royall Revenues of the Crown to support their wars, against their Tyrannicall oppressing Princes. In * *Flanders heretofore, and the Low-Countries of late yeares, they have constantly done the like; as their Excises large since imposed, and yet on foot by common consent* (without the King of *Spains* good liking) *to preserve their Liberties, Religion, Estates, from the Spanish Tyranny*, witnesse; *which every one willingly at the very first imposition, and ever since hath readily submitted to, being for the publike preservation.* The like hath been done in former ages, and within these five yeers in the Realm of *Scotland*; the same is now practised even without a Parliament by the Popish Rebels both in *Ireland* and *England*, who have laid Taxes upon * *all Ireland*, and all the Romanists in *England*, for the maintenance of this present Rebellion; and yet neither King, nor his Counsell, nor Royallists, nor Malignants (for ought I can read or hear) have ever so much as once written or spoken one syllable against it, when as many large Declarations, Proclamations, Inhibitions in His Majesties Name, and at least fortie severall Pamphlets have been published by Malignants against this Assessment of the Parliament, and the Levying, or paying thereof, strictly prohibited under pain of high Treason; such a grand difference is there now put by the Royall Court-partie (to the amazement of all intelligent men) between the Irish Rebels, (now the Kings best Subjects as it seems) who may do what they please without censure or restraint; and the English (now un-Parliamented (Parliament, though perpetuated by an Act of Parliament) who may do nothing for their own, or the Kingdoms safety, but it must be high Treason at the least *O tempora; o mores: Quis talia fando temperet a lachrymis?* Adde to this, * *That the Lords Justices and Councell in Ireland, the twenty nine of Jun. 1643. have without authoritie of Parliament or King, for their present necessary defence, against the Popish Rebels there, imposed an Excise upon most commodities in that Realm, here lately Printed*;

*See Matthaeus and Grimston's generall History of the Netherlands.

*See the Relation and proceedings of the Irish Assembly at Kilkenny. The Parliament Remonstrance of the rise and progresse of the Irish Rebellion.

*See the Irish exile.

which

which no man can deem Illegall in this case of absolute necessitie. But to come close home unto our selves; who is there that knows ought in historie and policie, but must needs acknowledge, That the *Brittains* and *Saxons* warres of this Realm, against their *oppressing Kings*, * *Archigallo, Emerian, Vortigerne, Sigebert, Ofred, Ethelred, Beornard, Leowulfe, Edwine, (whom they deposed for their Tyranny and mis-Government;)* That our Barons long-lasting bloody warres against *King John, Henry the third, Edward the second, Richard the second, and others fore-mentioned*; were maintained by publike Assessments and Contributions made by common consent, even without a Parliament, and with the Revenues and Rents of the very Crown, which they seised on, as well as the Castles and Forts? This being a true rule in Law, *Qui sentit commodum, sentire debet & onus*; All the Kingdom had the benefit, of regaining, preserving, establishing their Fundamentall Charters, Laws, Liberties, by those warres; therefore they deemed it just, that all should bear a share in the charge and burthen, by voluntary Assessments without King or Parliament.

* See Part 1 p. 7, 8, 9 &c.

During the absence of King *Edward* the third in *France*; *The (a) Lords and Commons in Parliament, for the defence of the Realm by Sea and Land, against forraign Enemies; granted an ayde of the ninth Sheaf, Lamb, and Fleece, besides many thousand Sacks of Wooll, and the ninth part of other mens Estates in Towns and Corporations, and disposed both of the Money and* Militia *of the Realm, for its defence, as you heard before:* The like did they during the Minorities of *King Henry the third, King Richard the second, and King Henry the sixth*, as the premises evidence, without those Kings personall assents. *(b) Anno Dom.* 1259. *Richard King of Romans coming with a great Navy and Army of Germans, and forraigners, to ayd his Brother, King* Henry *the third, against the Barons; thereupon, the Barons sent out a fleet to encounter them by Sea, and prepared a strong Army of Horse and Foot by Land, that if they prevailed against them at Sea, (which they feared not,) yet they might valiantly and constantly entertain and repulse them, on the shore and dry Land; which the King of Romans being informed off, disbanded his forces, and came over privately with three Knights only attending him.* This was done without the Kings assent, and yet at publike charge. When *(c)* King *Richard the first was taken prisoner by the Emperour in his return from the holy Land, by Authority of the Kings Mother, and the Kings Justices alone (without a Parliament) it was decreed, that the fourth part of all that yeers Rents, and of all the moveables, as well of the Clergy, as of the Laity, and all the Woolles of the Abbots of the Order of the Cisterſians, and of Sempringham, and all the Gold and Silver Chalices, and Treasure of all Churches should be paid in, toward the freeing and ransome of the King; which was done accordingly.* If such a taxe might be imposed by the Queen Mother, and Justices onely, without a Parliament, for ransoming the King alone from imprisonment, may not a taxe of the twentieth part onely of mens estates be much more justly imposed on the Subjects by an Ordinance of both Houses in Parliament without the King, for the defence and perservation, both of the Parliament and Kingdom to, when hostily invaded by the King?

(a) 14 E 3 c. 20 21. brev. p. 2, 3, 4, 5.

(b) Matthew Paris. p. 952. 953. Speed p. 636.

(c) Roger Hoveden, annal. pars post. p. 726. Daniel. p. 122.

In few words, the King and his Councell, yea his very Commanders,

(without his speciall Commission or advice) have in many Countries imposed large monethly, weekly Contributions and Assessements on the People, beyond their abilities and estates; yea, upon the very Speaker and Members of the Commons, and Lords House, (notwithstanding their Priviledges of Parliament which they say they will maintain) to the utter impoverishing, and ruining of the Country; yea, they have burned, sacked, plundered, many whole Towns, Cities, Counties, and spoiled thousands of all they have, contrary to their very Promises, Articles, Agreements, which they never faithfully observe to any in the least degree; and all this to ruine the Kingdom, People, Parliament, and Religion; yet they justifie these their actions, and the Parliament, People, must not controule, nor deem them Traytors to their Country for it: And may not the Parliament then more justly impose a moderate in-destructive necessary taxe without the King, for the Kingdoms, Religions, and Peoples defence and preservations, against their barbarous Taxes, Plunderings, and Devastations, then the King, or his Commanders, Souldiers play such *Rex*, and use such barbarous oppressions without, yea against the Parliaments Votes and consents? Let them therefore first cease their own most detestable unnaturall, inhumane practises, and extortions of this nature, and condemn themselves, or else for ever clear the Parliament, from this unjust Aspersion.

Object. 7. The last Objection against the Parliament is, That they have Illegally imprisoned, restrained, plundered some Malignants, and removed them from their habitations, against *Magna Charta*, the Fundamentall Laws forenamed, and the Liberty of the Subject, contrary to all Presidents in former Ages.

Answ. 1. To which I answer, First, That the Objectors and Kings party are farre more guilty of this crime, then the Parliament, or their Partisans, and therefore have no reason to object it, unlesse themselves were more innocent then they are.

Secondly, For the Parliaments imprisoning of men pretended to be against *Magna Charta:* I answer first, That the Parliament is not with in that or any other Law against imprisonments, as I have formerly cleered; Therefore is not obliged by it, nor can offend against it: Secondly, That it hath *power to imprison, restrain the greatest Members of their own Houses*, though priviledged men, exempt from all other arrests; and publike persons representing those that sent them thither:* Therefore much more may *they imprison, or restrain, any other private persons, notwithstanding Magna Charta.* And the Parliament being the supreameſt *Judicature paramount* all other Courts, their commitments can not be Legally questioned, determined, nor their prisoners released by *Habeas Corpus*, in or by any other inferior Court or Judicature whatsoever. 3. The Parliament hath power to make new Laws for the temporall and perpetuall imprisonment of men, in mischievous cases, where they could not be imprisoned by the Common Law, or any other Act before or since *Magna Charta*; and so against the seeming letter of that Law wch extends not to the Parliament; and what persons they may restrain, imprison by a new enacted Law, though not restrainable before by *Magna Charta*, or the Common Law, without breach of either, they may whiles they sit, in case of publike danger, restrain, imprison, by their own Authority, without,

* See *Cromptons Jurisdiction of Courts, f.* 7, 8, 9, 10. *Hollinshead. p.* 1584. *Ferrers Cas. Dyer.* 275 39. *E.* 3. 7. 4. *H.* 4. 12, 13.

or

or before a new Law enacted. In how many new Cases, by new Statutes made since *Magna Charta*, the Subjects may be lawfully imprisoned, both by Judges, Justices, Majors, Constable, and Inferiour Courts or Officers; whereas they could not be imprisoned by them, by the Common Law, before these Acts, without breach of *Magna Charta*, and violating the Subjects Liberties, you may read in the Table of *Rastalls Abridgments of Statutes, and in Ashes Tables*: Title *Imprisonment*, and *False-Imprisonment*; Yea, by the Statutes of 23. *H.* 8. *cap.* 1. 31. *H.* 8. *cap.* 13. 33. *H.* 8. *cap.* 12. 5. *Eliz. cap.* 14. 1. *and* 2. *Phil. Mary*, *cap.* 3. 5. *and* 6. *E.* 6. *cap.* 1. 1. *Eliz. cap.* 2. with other Acts, perpetual imprisonment, during life, is inflicted in some cases, for which no imprisonment at all could be prescribed before these Acts, and for crimes, for which the parties were not formerly punishable; yet for the publike weale, peace, safety, and prevention of private mischiefs, even against the Letter (as it were) of the great Charter the Parliament hath quite taken away all liberty, the benefit of the Common Law, and of *Magna Charta* it self, from parties convicted of such offences, during their naturall lives; and if they bring an *Habeas Corpus* in such cases, pretending their perpetuall imprisonment, and these latter Laws to be against *Magna Charta*, they shall notwithstanding be remanded and remain prisoners all their dayes, because the Parliament is above all Laws, Statutes, yea *Magna Charta*; and may deprive any Delinquents of the benefit of them, yea, alter or repeal them, for the common good, so farre as they see just cause; *Though neither the* (*d*) *King, nor his Counsell, nor Judges, nor any Inferiour Officers, or Courts of Justice, have any such transcendent power, but the Parliament alone*, to which all men are parties, really present, and allowing all they do; and what all assent to, decree for the common good and safetie, must be submitted to by all particular persons, though never so mischievous to them; this being a Fundamentall Rule even in Law it self (*e*), *That the Law will rather suffer a private mischief, then a generall inconvenience.* Seeing then the Parliament to prevent publike uproars, sedition, treachery, in or against the Kingdom, Cities, Houses, or Counties, where factious persons live, hath thought meet to restrain the most seditious Malignants, (especially these about *London* and *Westminster* where they sit) and to commit them to safe custody, till they receive some good assurance of their peaceable behaviour; they must patiently suffer their private restraints for the common safety, tranquility, till the danger be past, or themselves reformed; who if they reform not their own malignity, not the Parliaments cautelous severity, themselves must be blamed, since they detain themselves prisoners only by not conforming, when as the Parliament desires rather to release, then restrain them, if they would be regular; and so they must blame themselves alone, not clamour against the Houses. All Leprous persons by the (*f*) *Levitical* and (*g*) *Common Law*, *were to be sequestred and shut up from others, least they should infect them; and so all persons visited with the Plague by late* (*h*) *Statute Laws may be shut up, without breach of Magna Charta.* Why then not Malignant, seditious ill affected persons, who infect others in these times of Commotion and Civill Warres, as well as Leapers and Plague sick persons, *removed into Pest-houses*, for fear of spreading the Infection upon the self-same grounds, by the Houses Authority? The Parliament by

(*d*) *Fortescue*, *f.* 1 *c.* 9, 10. 14. 15 *Crompons Iurisdict f.* 14. 11 *H.* 4. *f.* 73. 76 *Brooke Parag.* 15.

(*e*) *Littleton and Cook. Institutes* 1 *H.* 7. 15 *a* 17. *b.* 21 *H.* 7. 8. *a.*

(*f*) *Levit.* 13. & 14

(*g*) *Register. par.* 1. *f* 267. *Fitz. Nat. Bre. f* 234

(*h*) 1 *Iac. c* 31.

by an Ordinance, Act, or Sentence, hath *Power to banish men out of the Kingdom in some cases (which no other Court, nor the (h) King himself can lawfully do, as was expressly resolved in Parliament*, upon the making of the Statute of 35. *Eliz. cap.*1.) as is evident by the case of *Thomas of Weyland, An.* 19. *E.* 1; Of (*i*) *Peirce Gavaston and the two Spencers in King Edward the second his raign.* Of the *Lord* (*k*) *Maltravers in Edward* the third his raign; Of (*l*) *Belknap and divers, other Judges in the* 10 *and* 11 *yeers of Richard* 2. *his reign, by the Statutes of* 33. *El. c.*1. *Separatists, and of* 39. *El. c.*5. *Rogues are to be banished: and in* (*m*) Calice *heretofore, a Woman might be justly banished the Town for adultery*; and a scould at this day after three convictions is to be banished out of *Westminster*, and rowed over the *Thames* from thence thorough the water at the tayl of a Boat, for the quiet of the City. Then much more may any private seditious turbulent Malignants be justly restrained to some safe places where they may do no harme, till the warres and troubles be ended, or themselves reclaimed. Fifthly, By the (*m*) *Common and Statute Law of the Realm, yea by* (*n*) *Magna Charta it self, cap.*30. *the Lands, Rents, Goods, and Persons of Priors, and other aliens, Merchants, or others, residing in England may be, and have been usually seized on, and secured, or else their persons banished the Realm, and borders of England, during the warres with others of that Nation, least they should assist them in the warres with their Estates, persons, or intelligences, or betray the Kingdom, or places where they resided to the Enemy*; And upon this ground by the expresse Statutes of 2. *H.*4. *cap.*12. 20. 1. *H.*4. *cap.*7, 8. 3. *H.* 5. *cap.* 3. 4. *H.*5. *cap.* 6. 1. *H.* 6. *cap.* 3. the *Irish, Brittains, Welshmen, and Scots, because we had frequent warres with them, were not permitted to purchase either Houses or Lands, or to remain in any Fort, Town, or City, neer the Borders of Scotland, or Wales, but banished thence, and their Goods and persons, seised on in times of Warre, to prevent treachery, intelligence, and assistance of the Enemy.* A thing generally practised and warranted in all States and Kingdoms, (as well as in *England*,) by the very Law of Nations, as just and necessary in times of warres; as *Martinus Laudensis de Repræsaliis & de Bello, Henricus Ranzovius his Commentarius Bellicus, Georgius Obbrechtus: Disput: Juridica de Bello, Henricus Bocerus de Jure Pregnæ, Hugo Grotius, & Albericus Gentilis*, in their Books *de Jure Belli*, and all Historians evidence: Therefore lawfull for the Parliament to practise at this present, as well as the King, or any others. Sixthly, In times of *Forraign Invasions, the Parliament hath enjoyned all Inhabitants neer the Sea-coasts or Marches of Scotland and Wales, to repair to their Houses and Lands there, with all their Families, for the defence and safetie of the Realm, under pain of imprisonment, and confiscation of their Goods, and Revenues there, and elsewhere, as is evident by* 13. *E.*3. *nu.*21. *Parl.* 1. *and Parl.*2. *n.*20. 23. *Eliz. c.*4. *the* * *Statutes confining Papists to their Houses*, and sundry other Presidents. Therefore by like reason they may confine Malignants in times of warre, for the publike peace and safetie, and disarme them to for a time; as Constables may by the Law, disarme and imprison peace-breakers, fray-makers, riotors, and others to prevent bloodshed, quarrels, and preserve the publike peace.

Thirdly, For the plundering of Malignants, and sequestring their Estates; I answer, that, I think the Parliament never yet approved the plundering (or in plain

(*h*) See *Magna Char c* 29. *Cookes Institutes on Littleton. f* 133 *a. b. Cook Ibid.*

(*i*) See *Walsing. Daniel, Speed, Grafton, in the* 6. *&* 7. *E.* 2. *Trec. p.* 1. *p* 20 21, 22. *Exilium Hugonis le dispenc. f.* 15 *E.* 2. 1. *E.* 3 *cap* 2. *Walsing. hist. Ang. p* 366. *Ypodig Neust. p* 152. *Holing p.* 318. *Speed, p.* 674

(*k*) 10. *E* 3. 53. *Cooks Instit. f.* 132. *b.*

(*l*) *Walsingham, Speed, Grafton, Trussel Holing. in* 10 *and* 11 *R.* 2. 1 *H.* 4 1. *b.* 2 *H* 4 7. *a.* 31 *E.* 1. *Cui invita* 31.

(*m*) *Regist fol.* 31. *b Cooks. Instit f* 133.

(*n*) See *Part.* 2 *p* 16 17. *Fitz. Aydele Rep.* 43 65 57. 70 71. 76. 93. 98 1 *H.* 5 *c* 7 7 *H* 7. *c* 6. 2. *&* 3. *Ph. & Mar. c.*1 (*See* 4. *Jac. c* 1.)

* 35 *Eliz. c* 2 3. *Jac. c.* 3, 4, 5.

plain *English*, robbing) of any man, by any of their forces; they having plundered no places taken by assault, for ought I hear; though the Kings forces on the contrary, have miserably plundered all the Kingdom almost, (except the Papists who are most exempted from this rapine, and some few, chief Malignants,) yea, those very Persons, Souldiers, Cities, Towns, which by their very Articles of surrender, were not to be plundered; (witnesse, *Taunton*, *Bridgewater*, *Bristol*, *Gainsborow*, where many have been pillaged to their naked skins, notwithstanding their Articles of agreement, solemnely sworn, to depart quietly with bag and baggage, without interruption, and the Towns to be free from plunder) contraty to the very * Law of warre, and Arms; which may instruct all others not to trust them henceforth. If any of the Parliaments forces have misbehaved themselves in plundering any Malignants or disaffected persons, more then by seising of their Arms, distraining their Goods for imposed Assessements; or sequestring their Plate, Moneyes, Estates, for the publike service upon promise of repayment and restitution; I know the Houses have publikely, by expresse Ordinances, inhibited, disavowed the fact, and exposed the disorderly Delinquents to condigne punishments, even to the losse of their lives, if any please to prosecute them by way of inditement or Martiall Law. For my part I abhorre all violence, plunder, rapine, and disorders in Souldiers, as contrary to the Law of God, *Obadiah* 10. to 16. *Luke* 3. 14. and leave those who are guiltie of them to the severest publike justice, as offenders *against the* (o) *Law of Nature, of Nations, of the Land, yea, of Warre it self*: But God forbid the Parliament should be unjustly charged with all the misdemeanours of their Souldiers, which they prohibit, detest, censure; more then the King with all the barbarous rapes, murthers, cruelties, rapines, and monstrous insolencies, which his Cavaliers every where perpetrate without punishment or restraint; especially the blood-thirsty *Irish* Popish Rebels among them: who having shed so much *English* Protestants blood in *Ireland*, ere they came over hither, of which they vaunt, is such an high dishonour to God, and the *English* Nation, if their own blood be not shed for it by the hand of vengeance here; that I wonder with what face or spirit, His Majestie or any English Protestant can patiently suffer these *Irish* Rebels to shed any more Protestant English bloud, or breath in English ayre, who have cut the throats of so many thousand innocent English, both here and elsewhere, and are like to cut all our throats ere long (as they have designed) unlesse their throats be first cut by us. But yet for the plundering of such Malignants goods, and houses, who are oppositeto the whole Kingdom and Parliament, and will not joyn with them in the common cause, which concerns us all; as it hath sundry (p) *patterns in the Barons Warres, against the Poictovines and their faction, in Henry the third his raign, and afterwards against the Spensers, in Edward the second dayes formerly touched*; so it hath one observeable generall resolution of the whole body of the Lords and Commons, warranting it in King *Johns* raign, even then when they all took up Armes to enforce him to confirm the great Charter it self, which our Opposites cry out to be violated by the Parliaments moderate seisures, onely by way of distresse or sequestration: (q) *For the Barons, Knights, and Commons,*

* *Alber. Gent. de Iure Belli, l. 3. and Hugo Grotius, de Iure Belli, l 3 cap 9. 10. 11. &c.*

(o) See *Albericus Gentilis, de Iure Belli, l. 2. c 16. 2. 3. l. 3. c. 2 & 19. Hugo Grotius, de Iure Belli, l. 3. c. 11. to 25.*

(p) See *Part. 1. p 22. Part. 2. p. 18, 19, 0 Fabian. part. 7. p 78 92.*

(q) *Matth. Paris, Hist. p. 243. to 255. Daniel p. 141, 143, 144. Pat. 1 p 9. 10.*

With their whole Army being met together in London, which joyned with them to gain this Charter from the King; sent from thence Letters to all the Earls, Barons, and Knights throughout England, Who seemed (though but fainedly) to adhere to the King, exhorting them with this Commination; That as they loved the indemnitie of their Goods, and possessions, they should desert a perjured King, and adhearing faithfully to them, should with them inviolably stand, and effectually contend for the Libertics and Peace of the Kingdom; which if they contemned to do, they would with force of Arms, and Banners displayed, MARCH AGAINST THEM AS PUBLIKE ENEMIES, SUBVERT THEIR CASTLES, BURN THEIR HOUSES AND EDIFICES, AND NOT CEASE TO DESTROY THEIR PONDS, PARKES, AND ORCHARDS. *Whereupon all the Lords, Knights, and People, deserting the King, who had scarce seven Knights in all left with him, confederated themselves to the Barons in the Common Cause.* (wherein to be a Neuter, was to be an enemy, and no member of the politicke body, in which all were equally engaged.) *Whereupon the King thus deserted by all, condescended speedily to their demands, and confirmed the great Charter much against his will.* A very apt President for these times, which would make the people more unanimous, faithfull, and couragious for the Common Cause, if but imitated in the commination onely, though never put into actuall execution; he being unworthy once to enjoy any priviledge of a free-born Subject in the Kingdom, who will not joyn with the Parliament and Kingdom, to defend his Libertie, and the Kingdoms priviledges, in which he hath as great a common share, as those who stand, pay, and fight most for them. It is a good *Cause* (r) *of disfranchising any man out of any Citie, Corporation, or Company, and to deprive him of the Priviledges of them, if he refuse to contribute towards the common support, defence, or maintenance of them, or joyn in open hostilitie, contributions or suites against them.* There is the same and greater reason of the generall Citie and Corporation of the whole Realm, to which we are all most engaged; and therefore those who refuse to contribute towards the defence and preservation of it, if able; or by their persons, purses, intelligence, or counsell, give any assistance to the common enemy against it, deserve to be disfranchised out of it, to have no priviledge or protection by it, and to be proceeded against as utter enemies to it, Christs rule being here most true, (*f*) *He that is not with me, is against me; and he that gathereth not with me, scattereth abroad.* The (*t*) *Common-Wealth of which we are members, hath by way of originall contract for mutuall assistance and defence* (seconded by the late Protestation and Covenant) *a greater interest in our Persons, and Estates, then we our selves, or the King*; and if we refuse to ayd the republike, of which we are members in times of common danger, with our Persons, Abilities, Goods; or assist the common enemy with either of them; we thereby betray our trust and fidelitie, violate our Covenants to the Republike, and expose our bodies to restraint, our estates to confiscation, for this most unnaturall treachery, and sordid niggardlinesse (as well as for Treason, Fellony, or other more petty injuries against the State, or humane societie, made capitall by the Laws) most justly, for the publike

(r) Cook 11 Repub. f. 97, 98, 99 James Bagges Case.

(f) Matth. 12. 30.

(t) Cicero de Officiis, l. 1, 2. Aristot. Polit. l. 1.

publike ſervice of the State, which hath a generall Soveraign Intereſt in them in all times of need, paramount our private Rights, which muſt alwayes ſubmit to the publike: and loſe all our formerly enjoyed Priviledges, either of Laws, Liberties, or free-born Subjects, if we refuſe to defend, or endeavour to betray them, as the Laws and common practiſe of all Nations evidence. In the (u) *Barons warres againſt King John, Henry the third, and Edward the ſecond, in defence of their Liberties, and Laws, they ſeiſed upon the Caſtles, Forts, and Revenues of the Crown, and upon the Moneyes, and Goods of the* (x) *Priors aliens, and malignant Poictovines, which they imployed in the Kingdoms ſervice* (y): *Eodem tempore Caſtellanus de Dovera, Richardus de Gray, vir fidelis & ſtrenuus, qui ex parte Baronum ibidem conſtituebatur, omnes tranſeuntes & tranſituros, diligenter conſiderabat, cuncta prudenter perſcrutando, & invenit* NON MODICUM THESAURUM *paratum, dictis Pictavienſibus clanculo deferendum; qui* TOTUS CAPTUS EST, IN CASTRO RESERVANDUS. *Similiter Londini apud novum Templum* THESAURUS MAXIMUS, *de cujus quantitate audientes mirabantur, quem repoſuerunt Pictavienſes memorati, licet contradicentes reniterenter Hoſpitelarii,* CAPTUS *eſt*; AD ARBITRIUM REGIS ET BARONUM IN UTILES REGNI USUS UTILITER EXPONENDUS, writes *Riſhanger* the continuer of *Matthew Paris*; a good Preſident for the preſent times: After which the (z) *Barons baniſhed all the Poictovine Malignants, who miſcounſelled and adhered to the King, out of England, Anno* 1260; *Who Anno* 1261. *Were all baniſhed out of London, and other Cities, and Forts.* * *An.* 1234. *The Earl Marſhall having routed* John *of* Monmouth *his forces* (*which aſſiſted King* Henry *the third againſt the Barons*) *in* Wales, *he waſted all the ſaid* Johns *Villages and Edifices, and all things that were his, with ſword and fire, and ſo of a rich man, made him poor and indigent. In the very* Chriſtmas *holy-dayes, there was a grievous warre kindled againſt the King and his evill Counſellors. For Richard Suard conjoyning other Exiles to him, entred the Lands of* Richard *Earl of* Cornwall, *the Kings brother, lying not farre from* Behull, *and burned there, together with the Houſes, and the Corne, the Oxen in the Ox-ſtalls, the Horſes in the Stables, the Sheep in the Sheep-cots: they likewiſe burned* Segrave *the native ſoyl of* Stephen, *Juſticiar of* England, *with very ſumptuous Houſes, Oxen, and Corne; and likewiſe brought away many horſes of great price, returning thence with ſpoils, and other things. They likewiſe burned down a certain village of the Biſhop of* Winchesters, *not farre from thence, and took away the ſpoils, with other things there found. But the foreſaid Warriers had conſtituted this laudible generall rule among themſelves, that they would do no harme to any one, nor hurt any one* BUT THE WICKED COUNSELLERS OF THE KING, *by whom they were baniſhed; and thoſe things that were theirs, they burnt with fire, extirpating their Woods, Orchards, and ſuch like by the very Roots. This they did then* de facto; * de Jure, *I dare not approve it, though in Caſes of* Attaint, *and* Felony, *the very* Common Law *to terrifie others, gives ſentence againſt* perjured Juries, *Traytors, and* Felons, *in ſome Caſes, that their houſes ſhall be raced to the ground, their Woods, Parkes, Orchards, Ponds, cut down and*

(u) See Part. 2. f. 16. to 24.

(x) Fabian. part. 7. f. 78.

(y) Matth. Paris f. 943.

(z) Matth. Paris hiſt. Angl. p. 959. Graſton, p. 140, 141.

* Matth. Paris, hiſt. Angl. p. 380.

* See 2. R. 2 c. 7. 1. H. 5 c. 6. 2. H. 5. c. 8.

A4. Ass. 2 6. Ass. 7. 30. Ass. 24 50. Ass 4. 6. E 4. 5. Fitz. Attaint. 14.

and destroyed; their * Meadowes, and Pastures, plowed up and defaced, though not so great Enemies to the State, as evill Counsellors. * Anno 1264. the forty eight yeers of Henry the third his raign; The King keeping his Christmas with the Queen, Richard King of Romans, and many others at London, Simon Montford the Captain of the Barons at the same time, preyed upon the Goods of these who adheared to the King, and especially those of the Queens retinue, brought by her into England, whom they called Aliens. Among others, some of the Barons forces took Peter, a Burgundian, Bishop of Hereford, in his Cathedrall Church, and led him prisoner to the Castle of Ordeley, and divided his treasure between themselves; and took divers others of the Kings partie prisoners. Who thereupon fearing least he should be besieged in the Tower by the Barons army, by the mediation of timorous men, he made peace with the Barons for a time; promising inviolably to observe the Provisions of Oxford, that all the Kings Castles thoroughout England, should be delivered into the custody of the Barons; that all Aliens within a certain time should void the Realm, except those who should be thought faithfull thereunto by the unanimous consent of the Kingdom, and that faithfull and profitable natives of the Realm, should thenceforth dispose of the affairs of the Kingdoms under the King. But THE QUEEN instigated with fœminine malice, contradicted it all she could, which made the people revile, and cast dirt and stones at her, as she was going to Windsore, enforcing her to retire again to the Tower. How William Longshamp Bishop of Ely, Lord Chancellour of England, Earl John, and others, when they disturbed the peace of the Realm, and turned Malignants, were apprehended, besieged, imprisoned, excommunicated, and their Goods, and Castles, seised on by the Lords and Commons, out of Parliament, yea, during the time of King Richard the first, his absence and captivitie, you may read at large in * Roger de Hovedon, * Holinshed, Daniel, and others. Why then the Lords and Commons in Parliament may not now much more do the like, for their own, and the whole Kingdoms safety, I can yet discern no shadow of reason. I will not trouble you with Histories, shewing what violent unlawfull courses, Kings and People have sometimes used to raise moneyes in times of warre, by sacriledge, rapine, and all manner of indirect means; I rather wish those Presidents, and their occasions, buried in eternall silence, then reduced into practise; and verily perswade my self, that every ingenuous true born Englishman, who bears a reall naturall affection to his Countrey, or a Christian love to his Brethren, the Parliament, and Religion, will according to his bounden duery, the *Protestation*, and *Covenant* which he hath taken, rather freely contribute his whole estate, if need so require, towards the just defence of his Countrey, Libertie, Religion, and the Parliament, against the treacherous Conspiracies of the Pope, Jesuites, forraign Catholikes, Irish Rebels, English Papists, and Malignants, who have plotted their subvertions, then repine at, or neglect to pay any moderate Taxes, which the Parliament shall impose, or inforce the Houses to any extraordinary wayes of Levying Moneyes, for want of ordinary voluntary supplyes, to maintain these necessary defensive warres.

* Annal. pars posterior p. 702. 703. 705 706. 734 735.

* In the life of Richard the first.

I shall close up all in a few words. *The Parliament hath much against their will, been inforced to this present defensive warre, which they have a most just, and law-*

full

full power to wage and manage (as I have * *elsewhere* evidenced) *by the Fundamentall Laws of the Realm, yea, by the Law of God, of Nature, of Nations.*

* See Part. 2. and 3.

This warre cannot be maintained without Moneys, the sinews of it; wherefore when voluntary contributions fail, the Houses may by the same Laws which enabled them to raise an Army without the King, impose necessary Taxes for the maintaining of it, during the warres continuance, else their Legall power to raise an Army for the Kingdoms defence, would be fruitlesse, if they might not levy Moneyes, to recruite and maintain their Army, when raised: which Taxes if any refuse to pay, they may for this contempt, be justly imprisoned, as in cases of other Subsidies; and if any unnaturally warre against their Countrey, or by way of intelligence, advise, or contribution, assist the common Enemy, or seduce, or withdraw others (by factious slanderous speeches against the Power and Proceedings of the Parliament,) from assisting the Parliament in this kinde, they may for such misdemeanours (upon conviction) be justly censured, confined, secured, and their estates sequestred, rather then the Republike, Parliament, Religion, or whole Kingdom should miscarry: *It is better that one should perish, then all the Nation;* being the *voyce* * *of God, Nature, and resolution of all Laws, Nations, Republikes*, whatsoever. If any hereticall, scismaticall, or vitious persons, which may poyson others with their *pernicious false doctrines, or vitious wicked lives, appear in the Church, they may after admonition, if they repent not, yea, and* de facto, *are, or ought to be* * *excommunited, the Church, and societie of all faithfull Christians*, so as none may, or ought to converse with them till their repentance. If this be good Law and Divinitie in the Church; the banishing and confining of pestilent Malignants in times of warre, and danger, must by the self-same reason be good Law and Divinitie in the State.

* John 11. 50, 51. c 18. 14.

* 1 Cor. 5. 1 Tim 1 20. *Fitzherbert, Brook* and *Ash, Title Excommengment. Summa Angelica, Rosella* and others, *Tit. Excommunication.*

I have now (by Gods assistance) notwithstanding all distracting Interruptions, Avocations, Remoraes incountring me in this service; ran through all Objections of moment, which the King, or any opposites to this Parliament, have hitherto made against their proceedings, or jurisdictions; and given such full answers to them, as shall, I trust, in the generall, abundantly clear the *Parliaments Authoritie, Innocency, Integritie*, against all their clamarous malignant Calumnies, convince their Judgements, satisfie their consciences, and put them to everlasting silence, if they will without prejudice or partialitie, seriously ponder all the premises, and ensuing *Appendix*, which I have added for their further satisfaction, information, conviction; and the confirmation of all forecited domestick Laws, Presidents, by forraign examples and authorities of all sorts. And if any shall yet continue obstinate and unresolved after so many convincing Reasons, Presidents, Authorities, or still retain an ill opinion of the Parliaments proceedings; I shall desire them onely seriously to consider, the most execrable conspiracy of the Pope, Jesuites, and Popish party in all His Majesties three Realms to extirpate the Protestant Religion, subvert the Government, Parliament, and poyson the King himself, (if he condescend not to their desires, or crosse them in their purposes,) whom they have purposely engaged in these warres, still continued by them for this very end, to enforce the King to side with them, and so gain possession of his person, to accom-

pliſh this deſigne of theirs, (as is cleerly evidenced to all the world, by *Romes Maſter-Peece*, the *Engliſh Pope*, the *Declaration of the Lords and Commons, concerning the Riſe and Progreſſe of the Iriſh Rebellion*,) and then adviſedly to conſider in what great preſent danger the Kingdom, King, Parliament, and Religion are, when the Popiſh Partie, and forces now in Arms have gained the Kings, Princes, and Duke of *Yorkes* perſons into their cuſtodie, the Cities of *Cheſter*, and of late *Briſtoll*, the Keyes of *England*, with other Ports, to let in all the Iriſh Rebels upon us, to cut our throats in *England*, as they have cut above an hundred and fortie thouſand of our Proteſtant brethrens throats already in *Ireland*, it being one part of their deſigne, now preſently to be executed, as appears by ſundry Examinations in the Iriſh Remonſtrance; for which end, ſome thouſands of Iriſh Rebels (who have all embrued their hands there in Engliſh bloud,) are already landed here, and are in great favour and command about the King; To which, if they adde the omnipotent over-ruling power of the Queen (the Head of that partie) with the King, and his Councell, in diſpoſing all Officers, all places of command and truſt under him: The Confederacie and Contributions of forraign Popiſh States, to maintain this warre to ruine the Parliament, Kingdom, Religion, and re-eſtabliſh Popery in its univerſall extent; with the large progreſſe the Papiſts have lately made in *Ireland*, *Scotland*, and *England*, to accompliſh this their long-agitated Conſpiracie; and the late ſtrange proceedings in *Ireland*, where the beſt Proteſtants are diſplaced, diſgraced, reſtrained; the Popiſh Rebels advanced, and a truce negotiated, if not fully concluded with the Rebels, to the end that all their forces may be ſpeedily tranſported hither to ruine our Religion, and cut all our throats (enough to awake the moſt ſtupid Engliſh ſpirits, and rouze them, up to a ſpeedy unanimous reſolution to unite all their purſes, and forces to the Parliament, againſt the Popiſh Conſpirators, and theſe bloody Butchers now ready to devoure us:) and then I doubt not, if they have any true love to God, Religion, King, Countrey, themſelves, or their Poſterities, they will ſoon change their former opinions and practiſes againſt the Parliaments juſt proceedings, and joyn hearts, hands, forces, yea, their uttermoſt endeavours with them, to prevent and ward off that imminent deſtruction which now hangs over our heads, and will in ſhort time wholly ruine us, if God open not our eyes, and unite not all our hearts and mindes unto the Parliament, with one unanimous reſolution to oppoſe theſe curſed Confederates, who have plotted, occaſioned all theſe warres and miſeries, under which our Kingdomes now groan and languiſh; which long plotted Treacherie in humane probabilitie can no wayes be prevented, nor a ſettled peace, and Reformation eſtabliſhed, but with the totall ſuppreſſion of the Popiſh partie now in Arms, and by reſcuing His Majeſties perſon, Children, forces out of their Trayterly hands and power, whoſe death they have conſpired long agoe, if he refuſe to grant them an univerſall open toleration of their Antichriſtian Religion, in all His Kingdoms, and then to ſeiſe upon the Prince, and train him up in their Religion; which how eaſie it is for them to effect, now they have the King, Prince, Duke, the Kings Forts, his Forces in their power, yea potent Armies of their own in the field here, and ſuch a

force

force of Irish Rebels now ready to be shipped over to *Chester*, *Milford*, and *Bristoll*, for their assistance, and enforcement, to over-power the Protestant party in the Kings Armies, no understanding man can without fear and trembling, consider.

O then, if ever we will shew our selves faithfull, valiant, couragious, magnanimous, bountifull, really cordiall, and loyall to our *King*, *Kingdoms*, *Country*, *Parliament*, *Religion*, *Laws*, *Lives*, *Liberties*, *Kinred*, *Families*, *Posteritie*; Let all who professe themselves Protestants lay aside all causelesse jealousies and prejudices against the Parliament, or any others; and now speedily unite all their *Prayers*, *Hearts*, *Hands*, *Purses*, *Forces*, *Counsells*, *and utmost endeavours* together, to defend, secure them all against these forraign and domestice Jesuiticall Romish Confederates; and if any prove traiterous, fearfull, cowardly, unfaithfull, base, or faint-hearted in this publike Cause, as too many, (who deserve to be made spectacles of treachery and cowardise to posteritie, and cannot without injustice or dishonour to the Parliament and Kingdom, be suffered to scape scot-free, without severe exemplary punishment,) have done, to their eternall infamy, and betraying of their Country; the present generations shall abhorre them, posteritie curse, and declaim against them, as most unnaturall Monsters, unworthy to breath in English ayre, or enjoy the name, the priviledges of English men, or Protestants. There is a double kinde of Treachery in Souldiers, both of them adjudged Capitall. The first proceeds from a *sordid pusillanimous fear*, unworthy the spirit of a Souldier: and this is *Capitall*, both by the Civill and Common Law. By the * *Civill Law*; *The Souldiers who first begin to flye, or but faine themselves sick, for fear of the Enemy, are to be adjudged to death for thus their cowardize.* Yea *Lacæna* and *Dametria*, two magnanimous Women, *slew their timorous sonnes, who fled basely from the battle, with their own hands, disclaiming them as degenerous Brats, and not their sonnes*; the latter of them inscribing this Epitaph on her sonnes Tombe.

Hunc timidum Mater Dametriam ipsa peremit,
Nec dignum Matre, nec Lacedæmonium.

* *D. L. unne delictum 6. sect. qui in acie Rebuffus in L. liberorum sect. etenim. Henricus Bocerus, lib 1. de Bello, cap. 13. p. 49, 50.*

Indeed * *Charondas* and the *Thurians*, enacted, *That cowards who basely fled or refused to bear Armes for their Countries defence, should set three dayes one after another in the open Market-place, clad in Womans apparell*; (*a punishment farre worse then death it self, writes Diodorus Siculus*) *whereas all other Lawyers made it Capitall*; *yea, our* * *Common Law adjudgeth it Treason*: Witnesse the notable Cases of *Gomines* and *Weston*, 1. R. 2. *num.* 38, 39. *who were adjudged Traytors in Parliament, for surrendering two Castles in* France, *onely out of fear, when they were strongly besieged, and battered, sooner then they needed, without any compliency with the enemy*: The Case of * *John Walsh* Esquire, *accused of high Treason in Parliament against the King and Kingdom, for yeelding up the Castle of* Cherburg *in* France, *to the enemy, when as he might have defended it.* And the Case of * *Henry Earl of Essex*, in the second yeer of *Henry* the second, accused of high Treason, by *Robert de Monfort*, and vanquished by him in a *Duell*, waged thereupon; *for throwing down the Kings Standard (which he bare by inheritance) and flying, in passing a straight, among the Mountains, when fiercely encountred by the Welsh. For which*

* *Diodorus Siculus Bibl. hist. l. 12 sect. 15, 16. p. 420.*

* *See Here part. 2. p. 24.*

* *Walsingham. hist. Angl. pag. 337.*

* *Daniels hist. p. 81.*

which, though his life was pardoned, yet he was adjudged to be shorne a Monke, put into the Abbey of Reading, *and had his Lands seised into the Kings hands.* And as for * *treacherous revolting to, or delivering up Castles to the Enemy, it is Capitall, and high Treason by all Laws, and so resolved in Parliament,* 3. R. 2. in the Case of * *Thomas Ketrinton* Esquire, *accused of high Treason by* Sir John Annesley *Knight, for delivering up the Castle of* Saint Saviour *in the Isle of* Constantine, *to the French, for a great summe of Money, when as he neither wanted provisions, nor means to defend it.* As for those unnaturall Vipers, and Traytors, who shall henceforth (after this discovery) joyn with the Popish Conspirators, to ruine their Religion, Countrey, and the Parliament, for private ends, as * *Count Julian* the Spaniard joyned with the *Mores, An. Dom.* 713. whom he *brought into Spain, his native Countrey, furiously pursuing his own private injury with the Ruine of the publike.* I shall onely bestow his Epitaph upon them, with which I shall conclude this Treatise. *Maledictus furor impius Juliani, quia pertinax; & indignatio, quia dura: vesanus furiâ, ammimosus furore, oblitus fidelitatis, immemor religionis, contemptor divinitatis, crudelis in se, homicida in vicinos, reus in omnes. Memoria ejus in omni ore amarescit, & nomen ejus in aternum putrescet.*

* D. l. 3. *sect. 18 qui ad hostem Henricus Bocerus de Bello. l. 1. c. 13. p. 48.*

* *Walsingham. hist. Angl. p.* 245, 246. See *Rastall.* Captains and Souldiers. *Cook 6. Rep. f.* 27.

* The generall History of *Spain, l.* 5. *p.* 153, 154.

FINIS.

An

AN APPENDIX:

Manifesting by sundry Histories and Authors, that in the ancient *Roman* Kingdome and Empire; in the *Greek* and *German* Empires, derived out of it; in the old *Græcian*, *Indian*, *Ægytian* Realmes; in the Kingdomes of *France*, *Spaine*, *Italy*, *Hungary*, *Bohemia*, *Denmarke*, *Poland*, *Sweden*, *Scotland*, yea, of *Judah*, *Israel*, and others mentioned in the Scripture; the *Supreame Soveraignty* and Power, *resided not in the Emperours and Kings themselves, but in their Kingdomes, Senates, Parliaments, People, who had not only a power to restrain, but censure and remove their Emperours, and Princes for their Tyranny and misgovernment.*

With an Answer to the Principal Arguments, to prove Kings above their whole Kingdomes and Parliaments, and not questionable nor accountable to them, nor censurable by them for any exorbitant Actions.

HAving finished the preceding Treatise; which asserts, *The Supreame Authority and Soveraigne Power in the Realme of England, legally and really to reside in the whole Kingdome, and Parliament, which represents it, not in the Kings Person, who is inferiour to the Parliament:* A Doctrine, quite contrary to what Court Prelates and Chaplaines have for sundry yeeres inculcated into our Kings and People (who preach little else but *Tyranny* to the one, and *Slavery* to the other, to support their owne Lordly Prelacy, and hinder an exact Church Reformation) and directly opposite to the resolutions of many malignant Courtiers, Lawyers, and Counsellours about His Majesty; who have either out of ignorance or malice, created him a new Utopian absolute Royall Prerogative, unknowne to our Ancestors, not bottomed on the Lawes of God or the Realm; for maintenance of each *Punctilio* whereof, against the Parliaments pretended Encroachments, the whole Kingdome must be engaged in a destructive civill Warre, now like to ruine it: I could not but conjecture, how in all probability these Clergy men, Courtiers and Lawyers, out of their unskilfulnesse in true Divinity, History, Law, and Policy would upon the first tydings of this strange Doctrine, passe a sentence of *Excommunication* and *death* against it, as guilty not onely of *Heresie*, but *High Treason*; and judge it such a *monstrous Antimonarchicall* Paradox as was never heard of in, much lesse claimed or practised by any Kingdome, Realm, or Monarchy whatsoever: To anticipate which rash censures, and undeceive both Kings and Subjects whom these grosse Parasites have over-long seduced in this point, to their prejudices, convince the consciences of all gainsaying Malignants, irradiate this long obscured verity, whose seasonable discovery, may through Gods blessing, conduce very much to period the present

Differences between King and Parliament, touching matters of *Prerogatives* and *Priviledges* claimed by either; I conceived it, not only expedient but necessary, to back the forecited presidents of our own Kingdom with paralelled examples in most forraign Realmes and Monarchies (in which it is not mannerly to be overbusie without just cause) which I have faithfully (though suddenly) collected out of the best approved Authors and Historians; whereby I shall infallibly prove, that in the *Roman* State and Empire at the first, in the *Greek* Empire since, in the *German* Empire heretofore and now; in the ancient Kingdomes of *Greece*, *Egypt*, *India*, and elsewhere; in the Kingdomes of *France*, *Spaine*, *Hungary*, *Bohemia*, *Denmarke*, *Sweden*, *Poland*, *Scotland*, and most other Kingdomes in the world, (yea in the Kingdomes of *Judah* and *Israel*, and o hers mentioned in Scripture) the Highest Soveraig ne Authority, (both to elect, continue, limit, correct, depose their Emperours and Kings, to bound their royall power and prerogatives, to enact Lawes, create new Offices and formes of Government) resided alwayes in these or Princes persons. I shall begin with whole Kingdomes, Senates, Dyets, Parliaments, People, not in the Emperors, Kings, the Roman State, as having much affinity with *ours*, * *which was long under their command heretofore.*

* *See Camb. Br. Math. Westm. Polychr. Fabian, Holinsh. Speed, Grafton, Grimston.*

After the building of *Rome* by *Romulus* and *Remus*, (*a*) *Romulus* being elected King, *divided the people into two Rankes*; those of the highest and richest quality, he stiled *Senators*, making them a *Court of Counsell and Justice*, much like our *House of Peeres*; the other he termed *The People*, being the body of the State, and representing our *House of Commons*. In this distinction, made by the Peoples consent, the Soveraigne Authority to elect Succeeding Kings, to enact binding Lawes, to make warre, or peace, and the like; rested not in the Kings person, but in the Senate and people joyntly, if they accorded; yet principally in the people, in case either of assent or dissent between them; their very *Kings* and Lawes having their greatest power and efficacy chiefly from the peoples election and assent.

(*a*) *Livy, Rom. Hist. l. 1. Plut. Romul. & Numa Pomp. Dionys. Hal. Antiq. Rom. l. 2. Munster Cosmogr. l. 2. c. 62. p. 280.*

To begin first with their Kings Election and Authority. (*b*) when *Romulus* their first King deceased, there arose a great controversie in *Rome* about the Election of a new King; for though they all agreed to have a King, yet who should chuse him, and out of what Nation he should be elected, was then controverted. In the *Interim* to avoid confusion, the Senators, being 150. divided the Regall power between them, so as every one in his turne in Royall Robes should doe Sacrifice to the Gods, and execute Justice six houres in the night time, and six houres in the day; which tended to preserve an equality among the Senators, and to diminish the envie of the people, *when in the space of one night and day, they should see one and the same man, both a King and a private person.* But the people disliking this *Interregnum* (as tending to put off the Election of a King, that the Senators might keep the principallity, and divide it among themselves) (*c*) cried out, *that their bondage was multiplyed having an hundred Lords made instead of one, neither would they suffer it any longer, unlesse they would admit a King, created by themselves:* Hereupon the Senate, thinking it best to offer the people that, which they were like to lose, to gaine their favour, *Summa potestate populo permissa*, permitted to the people the chiefe power of Electing a King: but yet that they might not give away more right, then they dereined: they decreed, *That when the people had commanded and elected a King, it should be ratified, if the Senators should approve it, or be reputed the authors of it:* Then the *Interex* assembling the people, spake thus unto them: *O Romans* REGEM ELIGITE, *chuse ye a King: so the Senators thinke fit, and if he be one worthy to succeed Romulus,*

(*b*) *Plutarchi Numa Pompil. Dionys. Hal. l. 2. fol. 1.*

(*c*) *Livie Rom. Hist. l. 1. f. 14. 15. Edit Francofurti, 604. Dionys. Hal. l. 2. fol. 7.*

Romulus, they will approve him. This was so gratefull to the people, that lest they should be overcome with the benefit, they commanded, *that the Senate should decree who should reigne at Rome.* At last, *Numa Pompilius* was named; and none of the people or Senate daring to preferre any before him; *all of them joyntly decreed*, that *the Kingdome should be conferred upon him.* Whence *Canubius* the *Tribune* of the people in his Speech against the Consuls, long after, used these words (d) *Numa Pompilius* POPULI JUSSU *Patres auctoribus, Roma Regnavit. Reges exacti* JUSSU POPULI: which manifests, the chiefe power to be in the people. *Numa* departing, (e) *Tullus Hostilius* by *the peoples command*, consent and approbation was made King, which *Livy* thus expresseth; *Tullum Hostilium* REGEM POPULUS JUSSIT, *patres auctores facti*: After him the people created *Ancus Martius* King (f) *Regem* POPULUS CREAVIT; *patres fuêre auctores*: After him (g) *ingenti consensu Populus Romanus Tarquinium* REGNARE JUSSIT: The People of *Rome* with great consent commanded *Tarquin* to reigne. But he dying; *Servius* having a strong Guard to defend him (h) *primus injussu populi, voluntate Patrum Regnavit*, was the first that reigned without the command of the people, by the Senates consent; yet doubting his title for want of the peoples votes, and young *Tarquin* his Competitour, giving out speeches, (i) *se injussu populi regnare*, that he reigned without the peoples command; he thereupon so courted the Commons, by dividing the Lands he had taken from the enemies among them, that at last he appealed to the people, *Vellent nolerint ve se regnare?* whether they would or would not have him reigne? *tantoque consensu, quanto haud quisquam alius ante rex est declaratus.* But *Tarquin* the Proud affecting the Kingdome slew *Servius*; and (k) *Non Comitiis habitis, non per suffragium populi, non auctoribus Patribus*: without the Election of the people or Senate, *usurped the Crowne*; *neque enim ad jus regni quicquam prater vim habebat, ut qui neque populi jussu, neque Patribus auctoribus regnaret*, writes *Livy*: Whereupon reposing no hope in the love of the people, he endeavoured to defend his usurped Soveraignty by force: to which purpose, he of himselfe, without the Senate or Counsell, tooke upon him the conusance of Capitall offences; and by colour hereof, not onely to slay, banish, and plunder those whom hee suspected or hated, but even those from whom hee could expect nothing but prey. Then he lesseneth the number of the Senate to diminish their esteeme and power, and at last to subvert it. Hee was the first of Kings who dissolved the Custome used by all his Predecessours, *De omnibus Senatum consulendi*, of consulting with the Senate about all affaires, and administred the Common-wealth by his domesticke Counsels; making Warre, Peace, Truces, Leagues with whom he would, *injussu populi & Senatus*, without the peoples and Senates command; which Tyrannicall Usurpations of his, with his ravishing of *Lucretia*, caused *Brutus* and the incensed *Romanes* to rise up in Armes against him; deprive him of His Crowne, banish him, his Wife and Children, utterly to abolish the Kingly Government by a Decree, and to *take a (l) solemne Oath*, (lest afterward they might bee overcome by Royall intreaties or Gifts) *That they would never suffer any King to Reigne in Rome*: Which act of *Brutus* and the People is highly magnified by *Livie* and (m) *Tully*. This done, *the (n) people created two annuall Consuls*, who had *the Power, but not the name and continuance of Kings, Annuum imperium consulare factum est*: *Brutus* the first Consull was slaine, whilest hee was Consull, and *Valerius* his Companion being suspected by the People to affect the Kingdome, because hee demanded no new Companion: *Valerius* hereupon calls

(d) *Livie Rom. Hist. l. 4. p. 4, 145.*
(e) *Livie, l. 1. p. 7. Dionys. Hal. l. 3. c. 10.*
(f) *Livie l. 1. p. 11. Dionys. Hal. l. 3. c. 9.*
(g) *Livie l. 1, p. 28. Dionys. Hal. l. 3. c. 10.*
(h) *Ibid. p. 32, Dionys. Hal. l. 4. c. 1, 2.*
(i) *Ibid.*
(k) *Ibid. p. 36, 37, 8, 44. Dionys. Halicar. l. 4. c. 5 to the end.*
(l) *Livie l. 1, p. 45, 47. Dionys. Hal. l. 4, c. 10, l. 5. c. 1.*
(m) *De officiis l. 3.*
(n) *Livie l. 2. p. 47. Dionys. Halicar. l. 5. c. 1, 2.*

the people together (*o*) *layes downe his Fasces (the badges of his Soveraignty before them) which was a gratefull spectacle to the people, confessionemque factam; Populi quam Consulis Majestatem vimque majorem esse*; and a confession made, that *the People had greater Soveraignty and Power then the Consul*, who yet had regall Jurisdiction. And then there were Lawes enacted, of appealing from the Consul or Magistrate to the people, and that hee should lose both his head and goods, who should but consult to usurp the Kingdome.

In briefe, it is clearly agreed by (*p*) *Dionysius Halicarnasseus*, (*q*) *Polibius*, (*r*) *Livy*, (*s*) *Alexander ab Alexandro*, (*t*) *Bodin*, (and (*v*) *most* who have written of the *Roman Republike*) that the Soveraigne Authority among the Romans, *during their Kings, Consuls, Dictators*, and *other Magistrates*, was originally vested, not in the Kings, Senate, Consuls, or other Magistrates, but *in the whole body of the Senate, and People; the People had the chiefe Soveraigne Power of enacting and confirming Lawes*, (the Senates Decrees and Lawes being of no validity, unlesse the People ratified them) *of creating and electing Kings, Dictators, Tribunes, and all other great publike Officers; of denouncing warre, and making Peace: these Tribunes, and Dictators might restrain, curb, imprison, censure, depose the Roman Consuls (who had Regall Power) yea, the Roman Kings, Senators, and highest Officers*; and to *them the* (*x*) *last appeale from King, Senate, or other Magistrate might be made, as to the highest Tribunall:* they having power likewise to (*y*) *change or annull the very frame of their publike Government*, which they oft times did, as these Authors prove at large, to whom for brevity I referre the Reader. Yea, after the Roman Empire (the greatest, largest Soveraignty in the world) was erected, the Supream Power still rested in the Senate and People, not in the Emperors themselves, which (*z*) *Bodin* grants and proves. This is clearly evident by these ensuing particulars: First, the Senate and People had sole right and lawfull power both to *elect and confirme their Emperors*, and *to decree them new Honours, Titles, Triumphs*; which power of election, though some Emperors in a sort usurped, *by adopting their Successors*, and the Roman *Souldiers* too, by *presuming sometimes to elect Emperours without the Senate*; yet *these adoptions and elections were not held valid, unlesse the Senate approved and confirmed them*, who *usually elected all their Emperors, as of right*, according to that of the *Panegyrist*, *Imperaturum omnibus ex omnibus elegi debere*; Plinius Panegyr. Trajano dictus, and Jacobus Valdesius, c. 18. This appeares by the *election* and confirmation of most Emperors from (*a*) *Octavius* to *Leo the first*, and more particularly by the Senates and Peoples election and confirmation of *Nerva Pertinax, Severus, Gordianus, Maximus Pupienus, Clodius Balbinus, Philip, Decius, Trebonianus, Galienus, Claudius the second, Tacitus, Probus, Iovinianus, Aurelius*, and others. This right of the Senate was so cleare, that (*b*) after the death of *Aurelianus*, the *Army sent word to the Senate, that (as reason was) they should chuse and name an Emperor, and that they would obey him. After six months space (during which time the Empire was governed by the Senate) the Senate made choice of Tacitus*, who *earnestly refused the same at first, but in the end accepted thereof, to the great joy of the Senate and Roman people. After whose decease* (*c*) *Probus*, being chosen Emperor by *the Legions and Army*, he *presently wrote a letter to the Senate, excusing himselfe for having accepted the Empire without their knowledge and confirmation*; whereupon the Senate *confirmed his election* with many blessings, gave *him the name of Augustus, Father of the Country*; made him High Priest, and gave him Tribunall Power and Authority.

Secondly,

(*o*) *Livy ibid. p. 51, 52. Dionys. Hal. l. 6. c. 3.*
(*p*) *Antiq. Rom. l. 2. sect. 2. p. 132, 133, 134.*
(*q*) *Historiæ, l. 6, p. 529, 530, 534.*
(*r*) *Hist. l. 1, & 2, l. 27, p. 330.*
(*s*) *Gc. Dierum l. 2, c. 3, l. 4, c. 23, f. 239, 240.*
(*t*) Com. weal, *l. 3, c. 10.*
(*v*) *Rosinus, Godwin*, and others: and *Munst. Cosmogr. l. 3, c. 60, p. 280, 281, & c. 16, p. 379.*
(*x*) *Liv. Hist. l. 8, p. 313*, with the other forecited Authors.
(*y*) *Nobis eadem vi facitis iritam, qua pepericlis, Liv. Hist. l. 6, p. 250.*
(*z*) Common wealth, *l. 2, c. 5, & l. 1, c. 10.*
(*a*) See *Munst. Cosmog. l. 2. c. 63. Grimstons imperiall Historie, Suetonius, Dion Cassius, Herodian, Eutropius, Zonaras, Sabellicus, Chronicon Chronicorum, Opmeerus, Speed* and others in these Emperors lives, and others.
(*b*) *Crim. impe. Hist.* in his life, *p. 2, c. Munster Cosm. l. 3. c. 63. p. 296.*
(*c*) *Crim. impe. Hist. p. 208.*

Secondly, This is manifest by the confessions, and Actions of the *best Roman* Emperours. (d) *Volateranus* writes of *Trajan* (the (e) *best heathen Emperor* that *Rome* enjoyed, that *he used to call the Senate, Father*, but *himselfe their Minister*, or *Servant of their labour*; And *that standing, he did reverence to the Consuls sitting*, quia SE ILLIS INFERIOREM EX LEGIBUS esse REPERIRET, *because he found by the Lawes he was inferior to them.* Whence (f) *Dion*, (g) *Niciphorus*, and (h) *Speed* record of him; that *when he invested any Prætor or Commander, in giving him the sword, he openly commanded him before all, to use the same even against his owne person, if he governed not the Empire well, or violated Law and Equity*; confessing thereby, that he was subject not only to the Lawes, but to the sword of Justice too, in these Officers hands in case he did offend, much more then to the Senate. I read of the Emperor (i) *Decius*, elected by the Senate; that *he preserved the authority of the Senate*, (who *compelled him* to make his Sonne his companion in the Empire) *following their Counsell in all matters of Government, governing all things with great wisdome and equity, by the advice and consent of the Senate, to the great contentment of all the Roman People*; and going into *Thracia* against the *Gothes*, he *left the Government in the hands of the Senate*; permitting *them to chuse* a *censor at their pleasure, who had Supreme Iurisdiction over all men*; which office some former Emperors had usurped, making themselves Censors. So (k) *Claudius the second*, and *Tacitus* did nothing *without the consent*, advice, and counsell, *of the Senate, either in matters of Warre or Peace.* And (l) *Polybius* writes expresly, *That the Roman Emperors Counsels and purposes were effications, or invalid, at the pleasure of the Senate, which had power to remove or continue them, to encrease or abridge their power and wealth; to decree or deny them triumphs, towards which they contributed; and that they could neither make warre, nor peace, nor truces, without the peoples consent.* Their Emperors in truth, being but their chiefe Generals in their warres, at the first, in right.

(d) Comment. l. 23. f. 338.
(e) See Eutropius, Sabellicus, Zonaras, Grimston, Master of his life: Panegyr. Trajano dictus.
(f) In vita Trajani.
(g) Eccles. Hist. l. 3. c. 23.
(h) History of Gr. Brit. p. 95.
(i) Grimstons imperiall Hist. in his life, p. 181. Mumf. Com. l. 2. c. 63.
(k) Grimstons imperiall Hist. p. 196. 205.
(l) Hist. l. 6. p. 530. 531.

Thirdly, They had power to create one, two, or more Emperors at once, as appeares in their election of (m) *Gordianus*, the Father and Sonne to be Joint-Emperors at once, and of *Maximius Pupienus*, and *Clodius Balbinus*, and *Gordianus*, to be *Cæsars* at once. And those who could thus create more Emperors then one, when they pleased, no doubt had a power above the Emperors.

(m) Grimston, ibid. p. 171. to 176. Munster Cosmog. l. 2. c. 63.

Fourthly, They had a Soveraigue power, judicially to convent, censure, yea to depose, and adjudge their Emperours to death, for their tyranny and misgovernment: this appeares by the case of *Nero*, that wicked *Emperour* (n) whom the Senate *judicially deposed, condemned for his tyranny and misgovernment, as a publike enemy to the State, adjudging him to have his head fastned to a forke, and so to be publikely whipped to death, and then precipitated from a rock*: upon which sentence he being sought for, and forsaken of all, *to avoyd the execution of it, murthered himselfe with a poinyard.* So when (o) *Domitian* was slain, the *Senate assembling the same day, caused all his Statues to be throwne downe, and all the inscriptions and memorials of him to be cancelled, defaced; and elected Nerva Emperour.* (p) *Didius Julianus* who purchased the Empire by bribing the Soldiers, comming to *Rome* with an Army, went to the *Senate*, where assembling such Senators as were present, by *their decree he was proclaimed Emperour*, and they presently made his Son in law *Cornelius Repentinus* Prætor of *Rome*, putting *Sulpetianus* out of that office, and from thence he was caried to the Imperiall Palliace, and held for Emperour, more through force, then good will of any honest men: But the people hate-

(n) Grimston, Suetonius, Eutropius, Zonaras Volaterranus, Sabellicus, Platina, Polydor. Virgil. Chronicon Opmerus Chron. Chronicorum, Speed, and others in his life.
(o) Grimston, Eutropius, and others in his life.
(p) Grimstons Imperiall Hist. p. 160. Munster Cosmog. l. 2. c. 63. p. 2.

ing, and curſing him; at laſt, *a full Senate being aſſembled, by the common conſent of all the Senators, it was decreed, that Julianus ſhould be deprived of the Empire, as a man unworthy to rule,* and *Severus proclaimed Emperour*; to whom two of the principall Senators were ſent to yeild him their obedience, with the Enſignes of the Empire, and *Julianus* being generally abandoned, they *commanded him to be ſlaine in his pallace.* (q) *Heliogabalus* (that monſter of wickedneſſe) was ſlaine by the prætorion Souldiers by the Senates and peoples approbation, who *commanded he ſhould no more be called Antoninus, and that in deteſtation of him, no other Emperour ſhould after that be called by this name, and that he ſhould be called Tiberinus, according to the manner of his death, his body being tyed to great ſtones, and ſunke in Tiber, that it might never be found.* So (r) *Maximinus* the Emperour oppreſſing, and Tyrannizing over the people, with great cruelty, was *depoſed by the Senate*, and he, with his ſonne (though already made *Cæſar*, and declared Emperour) *adjudged enemies and Rebels*; *and Gordianus* with his Sonne *elected and proclamed Emperours by the Souldiers, people, and Senate of Rome.* After which they, conſidering the great power of *Maximinus*, to ſecure the City, *made great preparations to reſiſt him, and writ letters to all their Provinces, that* (ſ) *all thoſe Governours that Maximinus had there placed ſhould be diſplaced*; which direction was generally obeyed, and the Governours moſt of them ſlain. Thereupon *Maximinus* then in *Hungary*, poſts with his Army, and Son towards *Rome*; and young *Gordianus* being ſlain & his Father ſtrangled in the interim; the *Senate* aſſembled in the Temple of *Jupiter*, choſe *Maximus Pupienus and Clodius Balbinus* Emperours, and to pleaſe the people which conſented not to their election, they likewiſe named young *Gordianus Cæſar*, and raiſed forces to reſiſt *Maximinus*, who lying before *Aquilia*, his Souldiers hearing that he, with his Sonne were proclamed *Rebels at Rome*, and *new Emperours elected*, came boldly to their Pavilions about noone, ſlew them, and ſent their heads to *Rome*. By theſe, with ſundry preſidents of like nature, it is apparent, that the Soveraigne power and Juriſdiction, even after the Roman empire erected, continued ſtill in the Senate and people, to whom the Emperours were reſponſible, by whom they were depoſed, yea put to death for their miſdemeanours and offences againſt the ſtate, and oppreſſions of their Subjects: Which power they retained till the Emperours removed their Courts from *Rome* to *Conſtantinople*, by which meanes the authority of the Senate, and dignity of the Conſuls was almoſt wholly loſt by degrees, in *Juſtine* the ſeconds reigne.

After the ſeat of the Empire was tranſlated to *Conſtantinople*, the Senate, People, Souldiers, and Patriarchs of *Conſtantinople*, claimed a right, and power to elect their Emperours, to preſcribe conditions, and Oaths unto them before they were crowned; as alſo a power in ſome caſes to depoſe them, yea *execute them*, as you may read *at large* in their (t) lives; Of which I ſhall recite ſome inſtances. (v) *Julian* the *Apoſtate* dying, *Jovinian, aſſenſu omnium*, by the joynt aſſent of all the Souldiers, Captains, and people was elected Emperor; who abſolutely refuſed the Empire, ſaying; *that he being a Chriſtian would not be an Emperor over Infidels:* But all men were ſo pleaſed with his election, that they cryed out aloud ſaying; *we are all Chriſtians*; And for his ſake, thoſe which were not ſo, reſolved to become Chriſtians, *upon condition that he would accept the Empire*; which he thereupon accepting, with incredible joy and gladneſſe, *they ſwore obedience to him*, and gave him the Imperiall Enſignes. He being caſually ſmoothered to death; (x) *Valentinian* the *firſt* was by the *joynt conſent* of the Captains and Souldiers, choſen Emperour: after which, the Empire went by deſcent till the death of *Valentinian the ſecond* and then (y) *Martianus* by means of *Eudoxia, with the Senates and Patriarchs aſſent*

(q) *Grimſton* ib p. 160. *Ælii Lampridii Heliogabalus, Zonaras, Sabellic.* and others.

(r) *Grimſt.* in his life p. 170, to 174. with *Jul. Capitol, Sabellicus, Munſter*, and others.

(ſ) *Grimſton* p. 3-4.

(t) See *Munſt. Coſm.* l. 4. c. 59. *Zonaras, Nauclerus, Sabellicus Grimſton*, and others.

(v) *Ioannes Zonaras, Annal. Tom.* 3. p. 90. *Grimſt.* p. 245. *Eutropius*, l. 11. p. 154. See *Munſter Coſm.* l. 4. c. 9. throughout.

(x) *Zonaras* ib. *Grimſt.* p. 47. and *Munſter*, l. 4. c. 9.

(y) *Zonaras. Tom.* 3. f. 123.

assent, was elected and crowned Emperour: After whose poisoning (z) *Asper* sought to have been his Successor; but being an *Arrian*, the orthodox Christians of *Constantinople* would by no means elect him; whereupon, *accepta a populo potestate*, he named *Leo* Emperour, having received power so to doe from the people. *Leo* adopting one of *Aspars* Sonnes *Cæsar*, the *Senate and people* were so much displeased at it, fearing that an *Arrian* should reigne over them, that they went tumultuously to the Emperour, desiring him *to remove him from that dignity*, who soone after slew both him and his father. (a) *Basiliscus* usurping the Empire against *the Senates and peoples consents*, who hated him for his Tyranny; the people sent for *Zeno*, whom he expelled, received him into *Constantinople*, and restored him to the Empire; After whose death (b) *Anastasius, de sententia Senatus & Legionum*, was elected Emperour by the Senates and Legions decree. He dying, (c) *Justinus*, by the generall *consent both of the Senate, people, and Souldiers* was elected Emperour, though but *a swineheard* in his yonger dayes; who creating *Justinian* for his Successor, the *people gave their consents thereto, with happy acclamations*. So (d) *Constans* the second was made Emperour by the Senate of *Constantinople*. (e) *Philipicus* usurping *the Empire against the peoples and Senates* liking, they rose up against him, deposed him: and as (f) *Beda* (g) *Marianus* (h) *Otho Frisingensis* and (i) *Abbas Vspergensis* write; The people of Rome decreed, that neither his name, nor letters, nor coyne should be received. And the (k) *Senate and people of Constantinople* created *Anthemius* Emperour in his place, giving him the name of *Anastatius*. Thus (l) *Michael Curapalata* was created Emperour by the Senate in the life of *Stauratius* who intended to leave the Empire to *Theophanon* his wife. So (m) *Theodora, a toto Senatu, populo & sacerdotibus*, was elected and saluted Empresse. (n) *Isatius Angelus* was elected Emperour, and *Andronicus* deposed, apprehended and put to death by the people of *Constantinople* for his tyranny and oppression. After whose death (o) *Baldwin* Earle of *Flanders*, a *Frenchman*, was elected Emperour by the Souldiers and people, upon condition, the *Venetians* should elect the Patriarch: in whose blood the Empire *continued* (p) *four descents* and then returned to the *Greekes*. And as the Senate and people of *Constantinople* had thus the right of electing their Emperours, so likewise (q) they and the Patriarch of *Constantinople* prescribed a *conditionall Coronation*-oath to divers of them, which they were to take before they were crowned, and to deliver it under their hands in writing. *Anastatius Dicori*, being chosen Emperour after *Zeno* his death, (r) *Euphemius* the Patriarch of *Constantinople* before he would crowne him, exacted of him a confession of his faith in writing, wherein he should promise, *that he would innovate nothing in Ecclesiasticall Doctrines* &c. whereupon he delivered a writing to the Patriarch, wherein he professed, *that he did embrace all the Tenents of the Church, and that he would keep all the Decrees of the Councell of Chalcedon*; which done, he was crowned, and then presently tooke away the grievous tribute called *Aurargenteum*, which much oppressed the people. Thus when (s) *Michael Rungabis* was elected Emperour, and came to be crowned, *Nicephorus* the Patriarch first required of him a writing, wherein he should promise, *that he would violate no ordinances of the Church, nor defile his hands with the blood of Christians*: which conditions * *Bishop Bilson* grants, the *people had power to prescribe, the Empire being elective, but not the Patriarch alone*. And with all these Patriarchs sometimes presumed to excommunicate and keep their Emperours out of the Church for murthers and

(z) *Zonara* ib. f. 124. *Crimst* p. 292.

(a) *Zonaras* ibid. f. 126.

(b) *Zonaras* ib. f. 127, 128. *Crimst.* p. 296.

(c) *Zonaras* ib. f. 127. 128. *Crimst.* p. 305.

(d) *Crim.* p. 307.

(e) *Zonar* f. 127

(f) *Dec x Æta-tenundi.*

(g) *In Philyp-pico.*

(h) l. 5. c. 15.

(i) *An.* 713.

(k) *Zonaras Tom.* 3, f. 137

(l) *Zonaras*, ibid. f. 142

(m) See *Zonaras.* ib. f. 168

(n) *Nicetæ Choniatæ, Annales* f. 40.

(o) *Mursl. Cosmog.* l. 4, c. 1109 1110.

(p) *Munsteri Cosm.* l. 4, c. 9.

(q) See Bishop *Bilsons* true difference &c. part. 3. p. 494, to 505.

(r) *Zonaras Annal. Tom.* 3. f. 126. *Cuspinian, in Anastatio.*

(s) *Zonaras Tom.* 3. f. 142.

* se (q) before.

and such like offences, as appeares by (t) *Polyenctus* keeping *John Zimisca* out of the Church, and refusing to crowne him, till he had banished the Empresse *Theophano* and those who slew *Nicephorus*; and by *Photius* his putting by the Emperour *Basilius* from the Sacrament, when he came to receive it, for homocidies committed by him.

(t) Zonaras Annal. Tom. 3. f. 151, 162.

Fifthly, The Roman Senate and people had power to divide the Empire, and to create a new Emperour at *Rome* in the West, distinct from that of *Constantinople* in the East: About the yeare of Christ 456 (v) *Genfericus* King of the Vandals wasting *Italy* and sacking *Rome* whiles *Marcianus* the Emperour resided at *Constantinople*, the *Senators and Roman Gentlemen* returning to *Rome* when *Genfericus* had lost it, wanting an Emperour to protect them, chose *Avitus* by common consent for Emperour of *Rome, Italy, and Sicilie*, of which *Marcianus* was very glad, and approved his Election: And not long after, whiles *Leo the first* raigned at *Constantinople*, the Senate successively elected *Olibrius* and *Glizerius* Emperours of *Rome, Italy, and Sicilie*; yea, the very finall division of this great Empire into that of the East and West, and the creation of a new Roman Emperour, and Empire of the West, with the transferring of the Imperiall Crown from the *Greeke* to the *German* line, was done by the authority, and joynt consent of the *people, Senate, and Bishop of Rome*, upon this occasion: as (x) *Blondus* (y) *Sabellicus* and (z) others relate. *Aistulfus* King of the *Lombards* invaded and spoyled those parts of *Italy* belonging to the *Romans*; who being unable to resist or pacifie him; the Bishop and City of *Rome* hereupon sent messengers to their Emperour *Constantine* to *Constantinople*, for ayd, assuring him, *that unlesse he sent them ayd the City and whole Country would be subdued by Aistulfus*: But whiles *Rome* and *Italy* were ready to sinke under those ruines *Constantine* had no manner of care to relieve them; and the messengers that were sent to him, signified by letters, *that there was no looking for help from Constantine, either for that he would not, or could not, and therefore they must seeke some other way*: In the meane time *Aistulfus* sent *Heralds* to menace the Bishop and people of *Rome*, that *unlesse they would yeeld themselves and their City, he would come and take them by force, and kill man, woman, and child.* Hereupon they being out of hope to pacifie the enemy, or to receive help from *Constantine*; the *Pope*, together with the people of *Rome*, determined to send messengers to desire ayd from *Pepin* father to *Charles* the great, then *King of France*, who sent them succour, subdued their enemy, and quieted *Italy*. After which, *Charles* likewise ayding and succouring both the *Pope*, and *Romans* against their enemies, and comming in person to *Rome*; the *Romans* (who in heart were long before falen from the Emperour of *Constantinople*, because he began to neglect the City of *Rome*, and to leave it as a spoyle to the *Barbarians* and others) taking this occasion and opportunity, and grieving that the Empire of the world, which with their blood they had gotten, and established by their vertues, should be governed and ruined by *Irene* (a lewd woman) *Constantines* mother (who swayed all at her pleasure) did thereupon elect and proclaime *Charles* for their Emperour, and commanded *Pope Leo* to crowne him.

(v) Grim. Impe. Hist. p. 291, 293. See Mun. Cosm. l. 2. c. 64. & l. 4. c. 59.

(x) Decad. 1. l. 1. 10.
(y) Enead. 8. l. 8.
(z) Bp. Bilsons true difference between Christian Subjection and unchristian Rebellion p. 415. to 416. Nauclerus vol. 3 Generat. 26. An. 753. Sigebert. Chron. An. 801. Æneas Sylvius de Author. Rom. Imperii c. 9 Munst. Cosmog. l. 2. c. 64.

(a) In Leone 3.
(b) Decad. 2. l. 1.
(c) Vol. 3. Gen. 27. An. 800.
(d) Enead. 8. l. 8
(e) Annal. Boiorum. l. 4. f. 344.
(f) Anno 801.
(g) L. 5. c. 29.
(h) De Author. Rom. Imp. c. 9.

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the Greekes to the Germans, and *from Constantine to Charles the Great*: ever since which time it hath continued thus divided in the blood of *Charles*, and other *French* and *German* Princes. A most cleare demonstration, that the most absolute Soveraigne power and disposall of the Empire resided not in the Emperours themselves, but in the Senate and people, even from the very first Emperours, till this partition of the Empire (more then 800 yeares space,) and that their Emperours neglect to protect, to ayde them against their enemies when they needed, and craved help, was a iust ground for them to reject his Soveraignty; yea, to create a new Empire, and Emperour of another race, as (*i*) *Pope Leo* with *all* the Roman Clergy, Senate, and people then resolved; not only in point of State policy, but of Conscience too: *upon very* (*k*) *ground*; not only the *Spaniards* fell off from the *Roman* Empire, electing them Kings, and erecting Kingdomes of their own: but likewise our (*l*) *Iland* of *Britain* (*the fairest plume of the Roman Diadem*) *rejected the Roman yoake and Government*, to which it had been subject almost 500 yeares; *craving ayd against the Scots* and *Picts* from the *Saxons*, who thereupon became their Soveraigne Lords at last, and disposessed them of the Kingdome: Now, that these revolts and changes of the Empire in this case were lawfull even in point of Conscience, we have the resolution of *Bishop Bilson* himselfe, (in his Booke dedicated to *Queen Elizabeth*, wherein he professedly defends the Soveraignty of Kings) in these very words (*m*) *The Roman State and Common wealth had as good right to dispose the Roman Empire, as all other Christian and Heathen Kingdomes and Countries had to settle the sword and sceptre that Reigned over them. And since all* (*n*) *other Nations once members of the Roman Empire, were suffered to plant those severall formes of regiment which they best liked, and when the Right Heires failed to elect their owne Governours, I SEE NO CAVSE why the Romans might not provide for themselves as well as other Realmes had done before them; especially if the reports of your stories be true; that they were neglected by the Grecians, when they were beseiged by the Lombards; and the sceptre at Constantinople went not by descent, or succession, but by violent and wicked invasion, and usurpation.* So he; with whom *Cassanæus* in his *Catalogus Gloriæ mundi: pars* 5 *consid.* 30. *p.* 248. accords, and *Iacobus Valdesius, de Dignitate Regum Hisp. c*, 18. *n*, 20, 21.

Sixthly, After this division, and translation of the Empire unto *Charles the Great*, the Roman Empire for a time, by permission and connivence of the French, & German States, went by *succession* till *Charles the Grosse*; after him wholly by Election, (*o*) the power of electing the Emperour residing in all the *French & German Princes*, till at last it was by consent, about the yeare 1001. translated to the 6, or rather (*p*) 7. *Princes Electors*: Yet during all this time the Soveraigne Power and Iurisdiction of the Empire resided only in the German Princes, States and Diets (not the Emperours themselves) who had power, not only freely to elect what Emperours they pleased, but also to censure, and depose their Emperours upon just grounds, and to set limits to their Imperiall Iurisdictions. Not to trouble you with the Histories of (*q*) *Ludovicus Pius, Otho the great, Henry the* 1,2,3,4,5,6,7. *Lotharius, Fredericke Barbarossa, Phillip, Otho the fourth & fifth, Fredericke the* 2,7. Albert the 1, *Ludovicus Bavarus, Sigismond*, and other Emperours, who were much affronted, persecuted, *warred against*, and some of them unjustly deposed and murthered by their Subiects, Sons, and the Princes electors, through the *Popes* procurement; I shall pitch only upon

(*i*) see *Aventine, An*, *l*, 3, *f*, 314. *&c.* and *Bishop Bilson* (*k*) *before*

(*k*) *Iacob Vald. de dignitate Regum Hisp c*, 18. *Munst. Cosm. l.* 2, *c*, 20, 21.

(*l*) see *Speeds Hist. p*, 189 to 212.

(*m*) The true difference between Christian subiection and unchristian rebellion part. 3 *p*, 416.

(*n*) *Cassanæus catalogus gloriæ mundi pars* 5, *consid.* 29, *p*, 245 246.

(*o*) see *Munst, Cosm l*, 3, *c*, 22, and *Grimstons Imperiall Hist.*

(*p*) *Grimst. Imp. Hist. p*, 433, 535. 560, 571. 572. *Munst. Cosm*, *l*, 3, *p*, 410, to 414.

(*q*) see *Grimst. Abas Vspergensis, Nauclerus, Rerum Germanicarum Scriptores, Munst Cosmogr. l*, 3, *Bp. Iewels veine of a seditious Bull.* and others in their lives, and *Iohn White his Defence of the way*, 5, 6, *p* 18. to 21.

upon such presidents as are pertinent to my purpose (r) *Charles the third* surnamed *the fat*, though he came to the Empire by discent, *yet the Princes, Dukes, and Governers of the Provinces of Germany, and France, seeing his great insufficiency, and unaptnesse to governe (he being growne a very foole and having lost his understanding) did thereupon deprive him of his Empire, and other Kingdomes; and elected and crowned Arnolph Emperour in his stead:* He being thus degraded both of Realme, Empire, and forsaken of all the world, not having so much as an house wherein to shroud himselfe, retired into a poore village of *Suabe*, where he lived some few dayes in excream misery, and penury, and soone after dyed; not lamented nor pitied of any man: Which deposition of his, I have formerly proved lawfull; though his subsequent ill usage was no doubt dishonourable, and unjust. So the Emperour (s) *Wenceslaus* was deposed by the Princes Electors of the Empire, *for his insufficiency to governe, and the little care he tooke to suppresse and pacifie the civill warres and dissention in the Empire, giving himselfe over to vaine pleasures and delights, which made his government dangerous, and unprofitable for the Empire, and Christian common wealth*; and *Rupert* made Emperour by them in his room. After this, about the end of (t) *Rodulph the second* his imperiall raigne, the Electors called a *Dyet at Nurenberg*, from whence they sent ambassadors to the Emperour to acquaint him with the State of the Empire; who told him, *that the Electors required above all things a reformation of justice: That he should make choice of more faithfull officers and Councellors then formerly he had done: That a generall Dyet might be called the spring following: That the reason of the bad government of the common weale was, for that his Majesty did not impart the important affaires of the Empire unto them, as his Predecessours had done &c.* Whereupon he appointed a generall *Dyet* to redresse these disorders; but dying before the day, according to the golden Bull made in the yeare 1356 the Elector *Palatine*, and he of *Saxon*, were appointed *Vicars, Governours, and Administrators of the Empire untill there were a King* of Romans *chosen to be Emperour.* After which they Elected *Mathias*, who *as Emperour and King* of the Romans (u) *had not any City or Towne within the Empire*, the whole Territory of *Germany* belonging to the Electors, Bishops, Abbots, Princes, Earles, Noblemen, and free Townes. What power the Princes Electors, and German states had, and yet have in electing, rejecting, deposing, restraining their Empercurs; in calling *Diets*, and making Lawes, you may read more largely in (x) *Munster*, and (y) *Grimston*: By all which, and other particulars, which for brevity I shall omit, it is most evident, that the Supream Soveraigne Authority of the Roman State, both under their ancient Kings and Emperours, and of the Greeke, and German Empires resided not in the Kings and Emperours themselves, but in their Senates, Diets, People, States, who prescribed them conditionall Oaths at their Coronations, and to whom they were still accountable for their actions and misgovernment, This (z) *John Bodin* (*a famous learned French Lawyer, of great experience in State affaires, surpassing all who writ before him of Republikes*) plainly affirmes in these words. *The Roman Emperours were at first, nothing else but Princes of the Common weale, that is to say, the cheife and principall men: the* SOVERAIGNTY *nevertheless still* RESTING IN THE PEOPLE AND SENATE, *the Emperour having the Soveraigne authority only in fact, not in right: the State being but a very Principality, wherein* THE PEOPLE HAD THE SOVERAIGNTY. *So the German Empire at this day*

(r) *Grimst. Imp. Hist p. 404, Munst. Cosmog. l. 3, p. 384, Hermolds Chron: Slauorum l. 1, c. 7, Iean Cressin Le state de Le glise p. 263.*

(s) *Munst. Cos. l. 3, p. 415, 416 404 Grimst. Im. Hist. p. 576, 581, 582. Iean Crisp. Le State de Le glise. p. 465.*

(t) *Grimst. Imp. Hist p. 736, 737.*

(u) *Munst. Cos. l. 2. c. 64, p. 303, l. 3, p. 410, to 418. Grimston. p. 737, 738.*

(x) *Cosm. l. 3, p. 382, to 418.*

(y) *Imp. Hist. from Charles the great to the end.*

(z) *Common wealth, l. 2. c. 5. p. 221, 222.*

day is nothing else, but an Aristocraticall Principality: wherein the Emperour is head and chiefe, the POWER *and majesty of the Empire* BELONGING VNTO THE STATES THEREOF, *who thrust out of the Government Adolphus the Emperour, in the yeare* 1296. *and also after him Wenceslaus in the yeare* 1400; *and that* BY WAY OF IVSTICE, AS HAVING IVRISDICTION AND POWER OVER THEM. (a) *And so properly ancient Romans said:* (b) Imperium in Magistratibus, Auctoritatem in Senatu, Potestatem in Plebe, Maiestatem in Populo; *Command to be in the Magistrates, Authority in the Senate, Power in the Meniall People, and Majesty in the People in Generall. The Senate in Rome did consult, the people command: for Livy oft times saith:* Senatus decrevit, populus iussit: *the Senate hath decreed, and the People commanded; Which be there more largely prosecutes, as you may read at leysure.* To all which (c) *Bishop Bilson* himself doth fully assent, affirming, *that Germany is a free state, that the Emperour holds the Empire by election, and that but on condition, which he takes an oath to performe. And if he violate their liberties, or his oath, they may not only lawfully resist him by force of armes, but repell and depose him as a tyrant, and set another in his place, by the right and freedome of their Country.* And (d) *Cassanaus* holds, *that the people may take away the very name of the Emperour at this day, degrade him, and resume his royall power.* This then being an unquestionable verity; disproves that palpable common mistake of (e) Dr. *Ferne* with other *ignorant Court Doctors and Royalists*, who would make the world and Kings beleeve, *that the Roman Emperours were of greater power and authority than the Senate, people; the highest powers upon earth to which all persons, yea the Senate and people collectively considered, ought to submit; and that it was unlawfull either for the Senate or people forcibly to resist Caligula, Claudius, Nero, and other their wickedest, and most tyrannicall Emperours: much lesse to depose, take armes against, or call them to a strict, just account for their Tyranny, Oppression, or Misgovernment*, it being directly contrary to *Pauls* Doctrine *Rom.* 13. 1, to 6. *Let every soule be subject to the higher powers, &c.* which false groundlesse principle, is the sole foundation upon which all their late Sermons, Books, and rayling Discourses against this Parliaments proceedings and taking up of defensive armes are built; when as in truth, the Senate & people were the *highest powers*, to whō the Roman Emperours themselves were to be obedient in all iust requests & commands, under paine of *damnation*, and subject to the Senates sword of Iustice in case of disobedience & misgovernment, as all the premises evidence; yea it likewise manifestly evidenceth, that whole States & Parliaments are the highest power and above their Kings, who are subject to thē, since the *Roman* and *Greek* Senates and people heretofore, & the very *German* States at this day are the *highest power* and above their Emperours, though *ever reputed of if greater power, Soveraignty and dignity than any Kings, and the greatest Monarchs in the world*: and that therfore Kings, even by *Pauls* Doctrine *Rom.* 13. ought to be subiect to the *higher power* and Iurisdiction of their Parliaments, the Laws and Statutes of their Realmes; and to be accountable to them, if not subiect to their censures, as some affirme, in exorbitant cases of misgovernment which concern the Kingdomes and peoples safety. If Kings iniuriously *take away the lands, goods, or imprison the persons of any particular subjects*, the (g) *Law gives every one a particular remedy against them by way of Action, or Petition of Right.* If then every private subiect may have redresse, much more the whole Kingdome, (in and by Parliaments only not in inferiour Courts) against their

(a) Rod. Cola. l. 1. c. 10, p. 157, &c.

(b) Cicero Oratio pro Rabirio, Perd. reo

(c) Of the difference between Christian subjection, &c. part. 3. p. 513. to 521.

(d) Catalogus Gloriæ Mundi. pars. 5. Consid. 24. p. 246.

(e) Resolving of Conscience sect. 1. 2. 3. 4 Revindication printed at Cambridge, 1643. and other late pamphlets.

(f) Cassanæus Catalog. Gloriæ Mundi pars. 5. consid. 27. & Iacobus Valdesius de Dignitate Regum Regnorum, Hispaniæ passim

(g) 22. E. 3. 3. Error, 8. Fitz-herbert Petition. The petition of Right 3. Caroli. See Ashes Tables Annuity 22. Amerciament. 8. entr. Congeable 84. Entrusion 1, Petition and Traverse des Offices throughout & Habeas Corpus Hieron. Blanca. Aragon. Rerum Comment. p. 188. 589. 590. 724. 747. to 761.

their Soveraigns which oppresse them; who being subiect unto the Lawes of God and their Realmes, which *have*(*h*) *no respect of persons*, may as many affirme, be questioned and iudged by them in their Parliaments as well as other princes, great officers of State and Magistrates who in scripture are called (*i*) *Gods*, the *higher powers* and said *to be*(*k*) *ordained, to rule* (*l*) *judge by and for God*, as well, as *Kings* and *Emperours*. It is branded as a spice of (*m*) *Antichristian pride* in *Popes* and their *Parasites*, to deem themselves *so High above other men*, that they are accountable to none but God for their wicked actions, though many Popes in former and later times, have been (*n*) *questioned, censured, imprisoned and deposed both by Emperours, Kings, and Councels for their intollerable misdemeanors*. And is it not the very selfe same crime in Kings, in Emperours, and their flatterers, to hold this Popish erronious opinion, that they are in no case responsible to their whole Kingdomes or Parliaments for their grossest exorbitances? Our (*o*) *Popish Prelates and Clergy* generally heretofore, and some of our Protestant (*p*) *Bishops* and Divines of late times, from St. *Ambrose* his practise, have held, that Kings for murthers, rapes, and great crying offences may *be Lawfully excommunicated and censured by the spirituall Law and sword, as sundry Emperours and Kings have been*; then why not likewise by the temporall, when their Parliaments and whole Kingdoms see just cause, the case of hundreds of Emperours and Kings in former times, as the Histories of all Nations and ages prove abundantly, beyond all contradiction? I shall here instance in some few Kings censures subject to the Roman State and Empire, with whom I shall conclude this discourse touching the Roman Monarchs (*q*) *Deiotatus* King of *Galatia* under the Romans Iurisdiction, and one of their allies, *was accused of Treason, and condemned to lose both his head and estate, for certaine offences against C. Cæsar*, and the *Roman State*; as appeares by *Tullies* Oration to *Cæsar* in his behalfe, to procure his pardon; which because it was the first president of this kinde, made his advocate say; *tamen ita inusitatum est, Regem capitis reum esse, ut ante hoc tempus non sit auditum*: yet long before that, *Zedechiah King of Iudah, rebelling against the King of Babylon, was brought prisoner to the King of Babylon to Riblah, where hee gave judgement upon him slew both his sonnes and Princes before his eyes, and then put out his own eyes, bound him with fetters of brasse, and carried him prisoner to Babylon, where hee died.* 2 *Kings* 25. 1. to 8. Ier. 52. 1. to 12. And after *Deiotatus* (*r*) *Antigonus* King of the *Iewes*, being taken prisoner by *Antonius*, for moving sedition against the *Roman* State, *was beheaded with an axe at Antioch, without any legall triall*, to prevent *further seditions*, which never befell any King before that *time*, writes *Alexander ab Alexandro*; And (*s*) *Agrippa*, not long after, put *Bogus* King of the *Mores* to death, for siding with *Antonius*. Of later times, I read that (*t*) *Ludovicus Pius* the Emperour taking *Bernard* his Nephew (*King of Italy*) prisoner, for rebelling and denying his superiority over him, carried him into *France*, to *determine what should be done with him according to Iustice, for this his offence*; where (though a King) hee *was condemned to death and executed*, as some, or at least *cast into prison, and had his eyes put out*, as others write: So (*v*) *Charles of France* taking *Conradine* King of *Sicily* prisoner, *publikely arraigned and condemned him of high Treason, and cut off his*

(*h*) Prov. 24 23 Rom. 2. 11.
(*i*) Psa. 82. 1, 2. Exod. 22. 8. Ioh. 10. 34, 35.
(*k*) Rom. 13. 1, 2 3, 4, 5. Tit. 3. 1. 1 Tim. 2. 2.
(*l*) Prov. 8. 15. Deut. 1. 17. 2 Chr. 19. 6, 7.
(*m*) B. Iewels view of a seditious Bull, Dr. Crackenthorp of the Popes temporall monarchy c. 1, 2, 3, 4, 5. Cassanæus Catalogus gloriæ mundi pars 4. consi. 7.
(*n*) See Balæus de vitis Pontificum. Morneys Misterium, and here, p. part. 1.
(*o*) Bp. Iewell's view of a seditious Bull. Matt. Paris, and Speed, in King Johns life: Bp. Bilsons true Difference, &c. part. 3, p. 409, 510 526. Saxo grammaticus Hist. Daniæ l. 11. p. 189, 190.
(*p*) Bp. Bridges his supremacy of Christian Princes. p. 1094.
(*q*) Oratio pro Deiotato Rege. 629.
(*r*) Iosephus Antiqu. Iudæorum, l. 15, c. 1. Alexander ab Alexandro Gen. Dierum l. 3, c. 5, f. 116. (*s*) Alexander ab Alexandro ibid. Strabo Geogr. l. 8, p. 712, 713. (*t*) Grimstons Imperiall history, p. 389. (*v*) Munsters Geogr. l. 2, c. 76, p. 316. Gen: hist. of France. p. 335.

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peal, Anno 1208. Yea, our owne (*z*) *King Iohn* being a *Feudatary* to the King of *France*, was by *Philip* the French king in a *full Parliament there* (during his absence in *England*) *arraigned, condemned to death, and deposed from his Crown by the sentence of his Peeres, for murthering his Nephew, Arthur*, (then a Subiect of *France*) *with his owne hands*: So (*x*) *Iohn Bailiol* king of *Scotland*, renouncing his homage for that Crowne, to king *Edward the first*, was for this offence compelled *to resigne his Crown with all his right to the kingdome of* Scotland, *to King Edward the first, and sent Prisoner to the Tower of London*: and (*y*) *Mary Queene of Scots*, within many mens memories, after long debate in Parliament, was condemned and beheaded at *Fotheringham Castle, Febr.* 8. *An.* 1587. *for laying claime to the Crowne of England, and other particulars mentioned in our Historians*. And thus much for the Roman, Grecian, German Emperours, kings and kingdomes.

(*v*) *Matth. Par. Hist. Angl. p.* 273, 274, 275 *Gen. Hist. of France. p.* 119.

(*x*) *Speed, p.* 653, 654 *Holl. Boetius, l.* 14. *Walsing. Holinsh. Fabian, Graft. and others.*

(*y*) *Speed*, 1156. 1196. *Cambd. Eliz. Holinsh. Stow, Martin, Buchanan.*

I shall now give you a briefe Survey of what Greeke Authors write concerning Kings and Kingdoms; and of the power, the kinds of ancient Kings and Kingdomes, in *Greece* and other places. That great Father of Learning and policie *Aristotle*, (Tutor to the greatest Emperour *Alexander* the Great) whose Authority is irrefragable in our Schooles; resolves: (*z*) *That true Kingdoms were erected at first and conferred on the worthiest men by the free voluntary joynt consent of the people, and founded, confirmed by the customes and Lawes of each country*, (which * *Polibius* also affirmes) (*a*) *That there are* 4 *severall sorts of Kings, some of greater, some of lesser Authority and continuance then others: some elective, some successive, some during life, some Annuall, all of them receiving their distinct jurisdictions, Formes, Limitations, and different Royalties, from the peoples primitive or subsequent institutions and consents. For all men being equall by the Law of nature, can have no dominion* nor Superiority one over another, *but by* their own voluntary consents. *That the* (*b*) *Lawes*, (*not the Kings Princes, or Magistrates be they one or more, or never so good*) *ought to be the sole Lords or Rulers of the Common-wealth, and that Princes and Governours ought to governe by the Lawes: who cannot command what the Lawes doe not command. That those who command that the Law should rule, command that God and the Lawes should rule: but he that commands a man to be a Prince, he commands that both a man and beast should be Princes: for covetousnesse and the lust of the minde is a certaine beast, which perverts both Magistrates and the very best men; but the Law is a constant and quiet Minde and Reason vayd of all motions of lusts and desires.* (*c*) *That the power of the greatest things, and greatest power, ought* (DE IVRE) *of right to be in all the people, because their wisdomes, resolutions, and revennues considered altogether, are greater and more considerable then those of a few wise or honest men placed in the highest offices of Magistracie, who are but a small particle of the State in respect of all the people.* (*d*) *That the people ought to be of more power then the King or greatest Magistrates, to prevent their Tyranny and Oppression; and that a King ought to governe by his Lawes, and not to doe any thing against them, according to his lust; wherefore he ought to have so much power and force wherewith he may protect the authority of the Lawes: yea he must necessarily have forces and power, yet so much onely, as thereby he may be able to curbe every particular man, or many also: yet not so great power but that, a populo autem universo idem* REX ILLE IPSE COERCERI POTEST, *the very King himself he may yet* BE CVRBED *by all the people: such Guards verily the Ancients gave to their Kings when they would set any Tyrant or Governour over the City: And when*

(*z*) *Polit. l.* 3. *c.* 10. *p.* 209. 210. *and l.* 5. *c.* 10. *p.* 367.

(*) *Hist l.* 6. *p.* 621. *&c.*

(*a*) *Polit. l.* 3. *c.* 10, 11. *and l.* 5. *c.* 10, 11.

(*b*) *Polit. l.* 3. *c.* 7. 10, 11, 12.

(*c*) *Polit. l.* 3. *c.* 10. *p.* 193.

(*d*) *Polit. l.* 3. *c.* 11. *p.* 217, 218.

Dionysius required Guards, a certaine Syracusan perswaded them to curbe such Guards: to which (e) *Polybius* also suffragates. According to these Rules of *Aristotle*, I read in (f) *Dionysius Halicarnassæus*, and (g) *Polybius*, *that in the Lacedemonian Commonwealth, the Kings had not the chiefe Dominion, so as they might doe what they pleased,* sed summa totius Reipub. administratio penes Senatum erat: *but the chiefe Government of the whole Commonweale was in the Senate, from whence the Romanes tooke their patterne.* (h) *Alexander ab Alexandro, Boemus, and Xenophon write, That the Lacedemonians sometimes elected a King out of the Family of the* Heraclidæ, *or of* Agis, *but more often two joynt Kings of equall Authority out of the stock of* Proclus and Æ. misthenes, who yet had not the chiefe Command as Kings, *Quia juris omnis publici potestas penes Senatum erat, because the power of all publike law or rule was in the Senate* (the better to keep their Kings from attempting and usurping a Tyranny; *they being Kings rather in name then Dominion,* and like the Achæan two *Annuall Prætors*; whence (i) *Aristotle* makes them, *the lowest ranke of Kings.* (k) *John Bodin* informes us, *That in the Lacedemonian Aristocracie, the Soveraignty remained in the State, wherein were two Kings without any Soveraignty at all, being indeed nothing else but Captaines and* * *Generals for the managing of their Warres; and for that cause were by the other Magistrates of the State, sometimes for their faults condemned to pay their fine, as was* Agesilaus, *and sometimes to death also, as was* Agis *and* Pausanias: (l) *Agis* the last of the Lacedemonean kings (as *Plutarch* records) *being apprehended and condemned by the Ephori, without an Indictment, and then hanged in a halter.* Finally (m) *Aristotle* himself, and (n) *Xenophon* informe us; *that the Kingdom of the Lacedemonians flourished very long,* yea *longer then any other forme of Government, because their Kings power was but small, and their Kings never desired greater things then the Lawes would beare, by which they had received their Kingdome in the beginning: for in the beginning that Kingdome was divided between two joynt Kings: After which* Theopompus *left it more moderated to his successours, and constituted the Magistracie of the Ephori* (who had power even to depose and execute their kings if they offended, *and rose not up out of their seates unto them;*) *to retain that moderation; By which meanes he verily weakned the power of the Kingdome, but yet certainely setled it more lasting and stable: Whence* Theopompus *gave this answer to his complaining and upbraiding wife; whether he was not ashamed to leave the Kingdome lesse to his Children then he had received it from his Father? No truly, saith he, for by this means I leave it more stable and lasting.* A Speech well worthy the consideration of the very greatest hereditary kings These Lacedemonian kings (*whose honours,* writes (o) *Xenophon, were not much better then those of private men; Etenim, neque Regibus animos addere Tyrannicos voluit,* Lycurgus, *neque civibus eorum potestatem invisam reddere, tooke an* (o) *Oath* every month, *to governe the Kingdome according to the Lawes enacted.* I finde that the (p) *Cumæans* had a Magistrate whom they called *Phylactus, whose office was, to come into the full Senate, and hold the Kings hands who stood in judgement before them, untill by the Senators decree, their reward or punishment was appointed.* By which it is apparent, that the *Cumæan Senate* was above their kings, and did usually arraigne and punish them iudicially, if they saw cause; as they rose up in Armes against (q) *Aristodomus* their king, (*who tyrannized over them*) *by Zenocrita her instigation,* slew him, and so recovered their Liberties. The (r) ancient *Carthaginians* had *two kings,* whom they stiled *Suffites; who were but annuall, removed every yeare;*

Yea,

(e) *Hist. l. 6. p. 501.*
(f) *Antiq. Rom. l. 2. sect. 2. p. 133.*
(g) *Hist. l. 6. p. 525, 526.*
(h) *Genial. Dierum, l. 4. c. 23. f. 238. & l. 3. c. 3. f. 117. De Moribus Gentium. See Xenophon Hist. Græc. l. 5. p. 504 & de Laced. repub. p. 690.*
(i) *Pol. l 3. c. 11.*
(k) *Commonw. l. 2 c. 5. p. 221. 222.*
* *Regi in exercitu nihil restat negotii, quàm ut rerum divinarum respectu sit Sacerdos, humanarum vero Imperator,* Xenophon Lacede. Resp. 689.
(l) *Plutar. Apoth. eg. p. 468.*
(m) *Polit. l. 5. c. 11. p. 369.*
(n) *De Agesil. Reg p. 651.*
(o) *Xeno. de Lacedem. Repub. p. 690.*
(p) *Alexan. ab Alex. l. 3. c. 5. f. 126. Cælius Rhodig. Antiq. Lect. l. 7. c. 10.*
(q) *Plutarch. de virtutibus mulierum, p. 544, 545.*
(r) *Alex. ab Alex. l. 3. c. 3. f. 117.*

Yea, the *Iberians* and *Parthians had two joynt kings in ancient times, the one to iudge the other to governe the people.* In (*f*) *Meroe*, where they elected their kings by *their beauty, strength or wealth; their Priests had the chiefe power; who had so great authority, that sometimes (like the Pope and his Nuntios) they would send a Messenger and command the king to be put to death, and make another in his steed. Which custome was after abolished by one of the kings, who violently assaulted and slew all the Priests:* and in (*t*) *Meroe* if the king offended, after the Priests power was abolished, they inflicted no corporall punishment on him, but all withdrew themselves from him and avoided his company till he was killed with griefe and consumption. The (*u*) *Indians will not permit their king to sleep in the day time, and if he be drunken at any time if any woman (of whom he hath a guard) kill him whiles he is drunke, she is so farre from being guilty of Treason, that for a reward, she shall be married to his Successour:* much like the ancient publike institution of the *Sclavonians*, recorded by (*x*) *axo Grammaticus, that the assassinate of evill Kings should succeed them in their kingdomes;* a thing frequently practised in many kingdomes and Empires, though very ill enacted in any. The (*y*) *Sabæans confined their Kings to their Palaces, and used to stone them if they went forth of their bounds.* The (*z*) *Mosserians* whose kings were elective, used to punish them, when they offended, by keeping them fasting a whole dayes space. Among some of the (*a*) *Indians, if the king dyes, having male children of his owne, or cosen-germans, or brothers children, they shall not succeed him in the kingdome, but his sisters sonne, if there be any; if not, then his next alliance;* and that, *ex gentis instituto, by the institution of the Nation;* the reason is, *because their Priests used to deflure the Queene, whose issue is held to be illegitimate.* In (*b*) *Thracia,* the people *elect a king who is well qualified, mercifull, grave for his age, and one who hath no children: For no Father, though never so well qualified, is admitted to raigne; and if he fortune to have issue while he reignes, he is deprived, and so kept, lest the kingdome should become hereditary.* Yea, *though the king be never so just, yet they will not that he should have the whole power, but appoint him* 40. *Governours, lest hee alone should iudge in capitall causes: And if he be convicted of any offence, he is punished with death, yet not by laying violent hands on him, but by publike consent, all food is kept from him, so as at last he perisheth with famine.* The (*c*) *Taprobani had this custome, that no man who had any children should be chosen king, lest he should claime the kingdome as hereditary, and make it so.* The (*m*) *Athenians, Ionians, Mulesians, Marchomanni, Quadi, Persians, Sicilians, Corinthians, Parthians, Meroes, Gordii, Medes, Raphii, Cathians, Æthiopians, Sydonians, Germans, Swedes, Danes,* and other *Nations had severall Customes, Lawes, Rules,* (over-tedious to recite) *by which they elected and inaugurated their kings* (of which you may read in *Alexander ab Alexandro*. (*n*) *Strabo,* (*o*) *Boemus,* (*p*) *Peter Martyr,* (*q*) *Purchas,* and others) *and different degrees of power and government derived from their kingdomes and people, the soveraigne Authority still residing in them to prescribe both Laws and limits to their kings, and call them to publike account for their grosse offences and misgovernment. The ancient* (*r*) *Æthiopians elected the most fanatique Priest for their king, whom though they adored and honoured for a God, yet Vitam agere* STATVTAM LEGIBVS DEBET iuxta patrios mores, *he ought to live such a life as the Laws appointed him, according to the manners of the Country, neither ought he to reward or punish any man himselfe, though chiefe parts of Royalty.* The (*s*) *old German kings had no free nor infinite, but a restrained and*

(*f*) *Strabo Geog. l. 17. p. 819. Alex. ab Alex. l. 3. c. 3. Diodorus Siculus bibl. hist. l. 3. c. 6. p. 140, 141.*
(*t*) *Alex. ab Alex. l. 3. c. 5. f. 123. Diod. Sic. Bibl. hist. l. 3. p. 140.*
(*u*) *Strabo Geogr. l. 1. p. 148 Alex. ab Alex. l. 3. c. 10. Munst. Cosmog. l. 5. cap. 133. Boe. de Moribus Gent. l. 2. c. 8. p. 102.*
(*x*) *Hist. Danicæ, l. 8. p. 140.*
(*y*) *Alex. ab Alex. l. 4. c. 23, f. 239.*
(*z*) *Alex. ab Alex. l. 3. c. 11.*
(*a*) *Munst. Cos. l. 5. c. 37. p. 1248.*
(*b*) *Munst. Cos. l. 4. c. 53. p. 1089 Boe. de Morib. Gentium. l. 3. p. 209, 210.*
(*c*) *Alex. ab Alex. l. 4. c. 23 f. 239.*
(*m*) *Gen. Dier. l. 4. c. 23. & l. 3. c. 1.*
(*n*) *Geog. lib.*
(*o*) *De Moribus Gentium.*
(*p*) *Ind. Hist.*
(*q*) *Pilgimage and Voiages, Merula, Munst. Gotard, Mercator, Nov. Orbis.*
(*r*) *Diod. Sicul. Bibl. hist. l. 3. c. 5. p. 140. Boem. de moribus Gent. l. 1. c. 4. p. 27. Forte scue de Laud. Leg. Ang. c. 12.*
(*s*) *Boem. de mor. Gent. l. 3. c. 12. p. 341.*

and bounded power by the Lawes. (t) Diodorus Siculus writes, that the first Egyptian Kings lived not like other Monarchs, to rule all things according to their wills, Nullis obnoxii censuris, as obnoxious to no censures; but all things, not only their publike actions, but even the regiment of their daily life, were conformed to the rule of the Lawes (as hethere manifests in sundry particulars) both in respect of their attendants, dispatches, devotions, recreations, moderate spare dyet, and the like; neither was it lawfull for them to judge, nor doe any thing, nor punish any man out of petulancy or anger, or any other unjust cause, contrary to what the established Lawes required concerning every of them. Whiles they observed these things customarily, it was so farre that they tooke it ill, or were offended in minde, that on the contrary they thought they lived a most blessed life. For other men rashly giuing indulgence to the affections of nature, acted many things accompanied with losses and dangers; yea some men oftimes although they foreknew they should sinne, did notwithstanding perpetrate evill things, being led away with love or hatred, or some other perturbation of minde; but they, imbracing the rule of life approved by the most prudent men, resolved not to erre from their duty in the least degree. Whiles Kings used this Iustice towards their Subjects, they had their Subjects bound unto them in greater benevolence and love then their very kindred; For not only the Colledge of Priests, but the whole Nation of the Ægyptians, and likewise every one of them were not so carefull of their wives and children and private goods, as of the safety of their Kings: Wherefore they preserved the estate of the Republike intire for a long time under the mentioned kings, spending their life in greatest felicity, as long as this constitution of Lawes flourished. And when these kings dyed, all the Ægyptians generally mourned for them in an extraordinary manner divers wayes, made solemne Orations in their praise, buried them with great pompe and solemnity, and erected Pyramides to their eternall honour; all which funerall pompows solemnities many ill kings wanted after their deaths, ob plebis refragationem, because the people gain-sayed it, (who together with the Priests and Senates, who were ever present with the kings to assist, counsell, and direct them, were superiour to their kings, since they could thus decree or deny them these funerall honours) which made many of their following kings to addict themselves to just actions too, for feare of contumelious handling and sempiternall ignominy after their decease. So this Author. To which I shall adde (v) Xenophons definition of a Kingdome and Tyranny: A kingdome, is an Empire over men by their free assents according to the Lawes of the City: And a Tyranny, is an unlawfull Empire over men against their wills, which depends upon the will of the Prince. And this observation of (x) Polybius, That kings in ancient times did give themselves wholly to doe that which was honest and just, and to suppresse the contrary; the very beginning of all true kingdomes, and the end for which kings were first instituted by the people. Whiles they thus demeaned themselves, they were subject to no envy, because they differed not much from others, neither in apparell, nor in meat and drinke, but observed a conversation of life conformable to other men, and lived perpetually like to others. But afterwards, when those who obtained the principality of succession, and the prerogative of their blood had those things already provided, which made them able to secure themselves, and to support their state, following their lusts by reason of their abundance, they then thought, it belonged to Princes to be better clad then subjects, to exceed them in costlinesse and variety of meats, and to use venery with whom they pleased: Hence envy and offence was begotten, and implacable hatred and anger kindled, and a kingdome by this meanes changed

(t) Bibl. Hist. l. 1. sect. 70. p. 61, 62, 63. Boem. De Mor. Gent. l. 1. c. 5. p. 37, 38. Fortes. c. 12.

(v) Memorabilium, l. 4. p. 813. De Laced. Repu. p. 690, 691.

(x) Hist. l. 6. p. 118, to 126.

changed into a Tyranny: Hence men most generous and magnanimous bold spirits, unable to beare such affronts and insolences of Princes, seditiously conspire against them; and the people having got such Captaines to make resistance, joyne with them for the foresaid causes, that the Princes may be represſed. And thus the forme of a Kingdome and Monarchy is utterly taken away by the roots, and the beginning of an Aristocracy again laid, the people refusing to set any more a King over them, yet not daring to commit the Republike to many, fearing as yet the injustice of Superiours, and therefore most esteeme equality and liberty; So that the Soveraigne power of setling, of changing the Kingdome and forme of government resides principally in the people, who (as hee there largely proves by the *Lacedemonian* and Roman state) *ought to enjoy the Supreame authority, and to be above their Kings*; as it seems the *Ægyptians* did, (*y*) *who deposed and expelled* Evergetes *their King, for his cruelty, and after him their King Ptolomæus Auletes, setting up* Cleopatra *his eldest child in his Throne*; and as the Romane Senate did, (*z*) *who had power to dispose of the common Treasury and revenue (one of the greatest points of Soveraignty) to appoint Lieutenants and Governours of Provinces, to grant Triumphes, to dispose of Religion: (for which cause (a)* Tertullian *saith, that never any God was received in* Rome *without the decree of the Senate,) and to receive, answer, and dismisse the Ambassadours of Kings and Nations, which none else did but the* Senate; whose Soveraigne power was such, that *Tiberius* the Emperour in the beginning of his Reigne called the Senators (assembled altogether in the Senate) *Indulgentissimos DOMINOS*, his most loving *LORDS*, (and moved the Senate, *to divide the Empire, & not to commit it all to one man*, as we read in (*b*) *Tacitus*) though they were his Subjects and inferiours when divided and severally considered: And such Soveraigne power had the *Panætolium* or generall assembly of Parliament among the *Ætolians*, who received and answered all Embassadours, determined all affaires of warre and peace, it being provided by the Lawes of the *Ætolians, that nothing should be intreated of concerning peace or war, but in their Panætolium or Pelaicon Councell*, as (*c*) *Livy* and (*d*) *Bodin* record.

(*y*) *Munst. Cosmog. l. 6. c. 19. p. 1298 1299*
(*z*) *Bodin Commonw. l. 2. c. 1. p. 273.*
(*a*) *Apolog. adv. Gentes.*
* *See Livy Passim.*
(*b*) *Annalium l. 1. Commonw. l. 3. c. 1. p. 276.*
(*c*) *Hist. Rom. l. 31. & 35.*
(*d*) *Commonw. l. 3. c. 1. p. 261.*

But to leave these ancient, and come neerer our present neighbor Kings and Kingdomes of greatest eminencie and power, which may paralell our owne; The Kings of *France* (to whom (*e*) *Cassaneus* in his *Catalogus Gloriæ mundi*, gives precedency *before all others, and to the Emperour himselfe, whiles but elect, before his Coronation*,) have in ancient times been inferiour to their Kingdomes, Parliaments, and subiect to their censures even to deposition, if not more, though (*f*) *some cry them up for absoluts Monarchs*, and make them little better then Tyrants now.

(*e*) *Pars 5. consid. 29, 30, 31. p. 243. &c.*
(*f*) *Cassan. Ibid. & Bodin Commonw. l. 2. c. 5. l. 1. c. 10. l. 3. c. 1.*

(*g*) *Iohn Bodin*, a learned French Lawyer and Statesman, writes, *That in ancient times the Kings of the Cities of the Gaules were subiect to their States*; whom *Cæsar* for this cause oftentimes calleth *Reguli*, little Kings, *being themselves subiects and justifiable to the Nobility, who had all the Soveraignty, causing them even to be put to death if they had so deserved: And that is it for which* Amphiorix *the Captaine Generall, whom they called the King of the Lingeois said*, Our commands are such, as that the people hath no lesse power over us, then we over the people: *Wherein he shewed evidently, that he was no Soveraigne Prince*; howbeit, *that it was not possible for him to have equall power with the people, as we have before shewed: Wherefore these sort of Princes, if they, polluted with wickednesse and villany, cannot be chastised by the Authority and severity of the Magistrate, but shall abuse their wealth and power unto the*

(*g*) *Commonw. l. 2. c. 1. p. 222.*

hurt and destruction of good men, IT ALWAYES HATH AND SHALL BE LAWFVLL *not for strangers onely, but even for the subjects themselves also, to take them out of the way: But if the Prince be an absolute Soveraigne, as are the true Monarchs of France, &c. where the Kings themselves have the soveraignty without all doubt or question not divided with their subjects; in this case it is not lawfull for any one of their subjects in particular, or all of them in generall to attempt any thing, either by way of fact or justice against the honour, life, or dignity of the Soveraigne, albeit hee had committed all the wickednesse, impiety, and cruelty that could be spoken*: so *Bodin*. By whose words it is cleare, that the ancient kings of *France* were inferiour in Jurisdiction to their whole kingdomes and Parliaments, yea censurable by them to deposition or death: Yet that their kings of late are growne absolute Monarchs above their kingdomes, Nobles, Parliaments, and so not responsible to, nor punishable by them for the grossest misdemeanours: But if this their absolute Monarchy be onely an usurpation (as many conceive it,) not of right, by their Parliaments and kingdomes free grants and consents, they are still, in truth, of no greater Authority, nor no more exempted from iust censures, then their predecessours. Now it is clear, that in ancient times, (*h*) *the 3 Estates and great Councell of France assembled in Parliament, and their twelve Peeres* (or kings as *Fabian* termes them) *were the highest power and judicature*, from which there was no appeale; *that the Kings of France could make no binding Lawes but by their Authority (though now of late they doe what they please) and that they have judged the differences between the Crownes of England and France* (as I have formerly proved) and exercised the same, or as great authority as the Parliament of *England* hath done, which authority it hath lost by certaine degrees. To give a few more instances to cleare this truth.

(*h*) *Fabian. pa. 5. c. 155. par. 6. p. 154. 160. 164. 243, 244. par. 7. p. 107, 108. 280, 282. Andrew Favin's Theatre of Honor, l. 2. c. 12. Munsteri Cosmog. l. 2. c. 40. p. 139 140. Paulus Æmylius, l. 1. Mercators Atlas, p. 254, 255. Bodin Commonw. l. 2. c. 1.*

(*i*) *Paulus Æmyl. l. 1. Gaguinus* and the generall History of *France* in his life, *Iean Crispin Le State de L'eglise p. 144. Fabian. par. 5. c. 75. p. 66. Munsters Cosmog. l. 2. c. 41.*

(*k*) *2. H. 5. f. 35. &c.*

(*l*) *Hist. p. 685. 687, 786. 787. &c.*

(*m*) *Fabian. pa. 5. c. 86. Gagui. Emyl. the Generall Hist. of France, Crespin, Munst.* and others in his life

(*n*) *Fabian, pa. 5. c. 122. 126, Gaguyn. Emyl. the Gen. hist. of France.*

(*i*) *Pharamond*, the first King of the *Franks*, that Reigned in *France*, An. 420. was *elected King by the unanimous vote and consent of all the people*: and by their advice and consent, in his Raign, the *Salique Law* was made to *Regulate the discent of the Crowne, that no women should be heires to it, or claime it by discent; which Law continues of force untill this day*, as all the French historians generally accord, who make frequent mention of it; though our English have much oppugned it, as you may read in (*k*) *Hall* and (*l*) *Speed*. (*m*) *Childericus* the fourth King of *France* about the yeare 460. giving himselfe to all vice and cruelty in such extreame wise, that hee became odible to his subjects; perceiving the murmur of the people, and fearing his sudden destruction, by the counsell of *Guynemeus*, fled out of his kingdome to *Besigne* king of *Thuringes*. Whereupon the French-men *with one assent, chose Gyll a Roman, for their King and governour*: who laying grieveous Taxes upon his Subjects by the fraudulent counsel of *Guynemeus* (a fast friend to *Childericus*) and using sharp execution upon some of the Nobles, so farre discontented his subiects that by the helpe of *Guynemeus*, they *deposed and chased him into Soysons*; and sending for *Childericus* againe, *restored and made him King*: after whose death his sonne *Clodovius*, was *by the people ordained and authorised for King of France*: between whose foure sonnes it was afterwards divided (*n*). After the death of *Childericus*, *Clotharius* being very young, *Gunthramus* king of *Orleans* (his uncle) *with the assent of the Nobles of the Realme*, was made his Tutor: who comming to age, hee offered to referre the differences between *Sigebert* and himselfe touching *Austracy*, (to which both laid claime) to *an Assembly of the Lords of that Kingdome*; and condemned Queen *Brunichild*.

cheild by the unanimous consent of the Lords, to bee tyed by the haire of her head to a wilde horse taile, and so to be drawed while shee was dead; for her many murthers and criminous deeds; which was accordingly executed. (o) King *Dagobert* exercised such tyranny and iniustice in pillaging his commons by Exactions and Tributes, that those who dwelled in the out parts of the Realme neere the Turkes, and other strange Nations, chose rather to put themselves under their government, than under the Rule of their owne naturall prince: *Poytiers* rebelled against him, his Lords murmured so much against him, that *Pipin* and *Martain* (two of his great Lords and agents) *to save his Crown*, dissuaded him from his ill counsells: whence a little before his death, calling a great counsell of his Lords Spirituall and Temporall, hee made his will, *and settled his Kingdome by their advice*; dividing it betweene his two sonnes. (p) *Theodoricus* king of France, giving himselfe to sloath and idlenesse, *committed the government of the Realme to Ebroyn* Mr. of his Palace, who did what he liked, and vexed and troubled the Subiects grievously; wherefore *by assent the Lords assembled them, and by authority deprived the King of all Dignity, and closed him in a Monastery during the residue of his life, when he had borne the name of a King without executing of the art thereunto belonging, three yeares*: the cruell *Ebroyn* they exiled to *Luxenbourgh* during life; making *Childericus* brother to *Theodericus King*, *Ann. 669.* who oppressing his subiects grievously, and using the Lawes of his progenitors after his pleasure, and iniustly causing a Noble-man called *Belin* to bee tyed to a stake and beaten to death, without guilt or Trespasse Hereupon the Lords and Commons, fearing like punishment without deserving, murmured and conspired against him, and slew him and his wife (then great with Childe) as they were hunting in a wood: After which *they restored Theodericus* (whom they had deposed) *to his former dignity*; under whom *Ebroyn* getting into place and favour againe, used such Tyrannie towards the Nobles and People, that *Pipin* and *Martaine* raised a great army against him, *lest he should destroy the Common-weale, gave him battell, and at last* Hermefreditus *slew him*: After which *Pipin* was made Master of the Palace in his place. (q) K. *Dagobert* the second dying without any Issue or knowne Heire at all, one *Daniel* (after named *Chilpericke*) a Priest, *was by the Lords and peoples generall assent chosen King of France*, Anno 721. *for that by their former experience of him, they deemed him apt for the rule of the Land.* After whose death, *Theodoricus* sonne to *Dagobert*, (secretly fostered among Nunnes within Nunneries in womans cloathing) was espied and *admitted for King*: During most of the forenamed Kings, the grand Master of the Palace swayed the Kingdome at *his pleasure, and executed the Office of the Kings, who had nothing but the bare name of Kings*, and were subiect to this grand Officer: Whereupon *Theodoricus* dying, (r) *Childericus* his sonne *being a Sott, and for his dulnesse unfit to governe*, *Charles Martell* Master of the Palace, (who swayed all things in *Theodoricus* raigne) deceasing, his two sons *Charlemaine* and *Pipin, by the advice of the Nobles of the Land, considering the insufficiency of the King to rule so great a charge, divided the Land of France betweene them, so that either of them should under the King Rule and Governe such proportion as then there was to them appointed*: *Charlemayne* soone after renounced his Government and turned Monke; and *Pipin*, as onely Ruler, tooke upon him the charge of the whole Realme. *Pipin* then considering in his minde in what danger and trouble before him, his Father, and he now had ruled the Land, and *that*

(o) *Fabian. part. 5. c. 132. Gaguinus, Paulus Æmylius, Crespin, the generall Hist. of France.*
(p) *Fabian. part. 5. c. 138, 139, 140. Gaguinus, Æmylius, Crespin, the generall History of France, in his life, and the life of Childericus.*
(q) *Fabian. part. 5. c. 144, 145. Gaguinus, Æmylius, Crespin, the generall Hist of France.*
(r) *Fabian. part. 5. c. 150, 153. generall Hist. of France, Gaguinus, Æmylius, Crespin, Turpin, Chronicon. Chronicarum, Sabellicus, Opmeereus, in the life of Childerick and Pipin, Aventinus Annal. Boyor. l. 4. Antonini Chron. Tit. 14. nu. 1 sect. 2. Munst. Cosmog. l. 3. c. 41. Bish. Iewels Repy, p. 341, 342, 343. Bishop Bilson of Christ. subiection &c. par. 3. p. 418 to 423. Blondus Decad. 1. l. 10. Nauclerus, vol. 3. gen. 26. Regino, 42 An. 722. Papyrius Masson, An. in Child. p. 83. Aymon. Gest. Fr. p. 103.*

the King to whom belonged all the charge, kept his Palaces, and followed all his delights and pleasures, without taking any paine for reformation of the same; sent an ambassage to *Pope Zachary*, (asking his advice in point of conscience,) *Whether it were more necessary or wealfull for the Realme of France, that he should be admitted for King, that did nothing but apply his minde to all bodily pleasures, without care and charge taken upon him for the guarding of the Land, and the People of the same*; *or he that tooke upon him all the charge and paine in defence of the Land, and keeping of the people in the due subjection?* To this the *Pope* answered, and wrote back to *Pipin*, that *he was best worthy, and most profitable for the Realme, to be admitted for King, that ruled well the Commonalty by justice and prudence, and the enemies thereof defended and subdued by his policie and manhood.* (*s*) *Aventine* relates his answer more largely, in these words; *I finde* (saith *Zachary*) *in the Story of Divine Scripture, that the people fell away from their wretchlesse and lascivious king, that despised the counsell of the wise men of the Realme, and created a sufficient man, one of themselves, King*; *God himselfe allowing their doings: All Power and Rule belongs to God, Princes are his Ministers in their Kingdomes*; *And Rulers are therefore chosen for the people, that they should follow the will of God, the chiefe Ruler in all things, and not do what they list: He is a true King that guideth the people committed to his charge according to the Prescript and Line of Gods Law*; *all that he hath, as power, glory, riches, favour and dignitie,* HE RECEIVETH OF THE PEOPLE, *and the people,* MAY WHEN THE CAVSE REQVIRETH, FORSAKE THEIR KING. *It is therefore* LAVFVLL *for the Franks and Germanes, refusing this unkindly Monster* (Childericke) *to chuse some such as shall be able in warre and peace, by his wisdome to protect and keep in safetie their Wives, Children, Parents, Goods and Lives.* Which answer of the Pope (recited and approved in our owne King (*t*) *Edward* the *Confessors* Lawes, and *Childerickes* deposition likewise *Chap.* 17.) being declared to the Lords, Barons, and Commons of the Realme (*whom this Pope likewise wholly absolved from their allegiance to* Childericke) *soone after, they of one assent and minde. proceeded, and deposed, and put downe their King and Governour,* Childericke (*u*) *being a Sott, a foole, a beast, and one unfit to governe, and closed him in a Monastery, after he had reigned ten yeares in the Kings room, by name onely*; which done, *they unanimously elected and crowned* Pipin *for their King*: By meanes whereof the Royall Line of *Moroveus* after 17 discents ended, and the Crown was translated to *Pipins* blood. Which act in point of policie, is determined lawfull by (*x*) *Polybius*, who Writes, *That the reason why some Kingdomes became hereditary, was onely this, because their first Kings being vertuous and worthy men, they were perswaded their Children would prove like them*; *but if at any time they degenerat, and prove otherwise, and the* (*) *posteritie of the first Kings displease the subjects, they thenceforth make the Kingdome elective*; *chusing Kings, not according to their strength of body and mindes attempting great things, but according to the difference of their will and reason manifested by their actions*: And by (*y*) *Aristotle*, who informes us, *That in Kingdomes confirmed in succession of blood, this is to be numbred among the causes of their ruine, that the Kingdomes descend to many contemptible and slothfull persons, who although they obtaine no tyrannicall but Royall dignitie, yet they live lustfully and proudly*; *and so the Kingdome easily falls to ground, and becomes a tyrannie, the people being unwilling that such should rule over them*; *and so either wholly alter the forme of government,*

(*s*) *Annal. Boiorum, l.3. p.299.* (*t*) *Lambards Archaion, f.130 Fox Acts & Mon. vol.1. Edit. ult. p.244.* (*u*) *Antonini Chron. Tit.14. 14.n.1. sect.2. f.102. Blondus Decad.1.l.10. Sabellicus Enead.8. l.8. Gaguinus l.3. in Car. Martel. Nauclerus vol.3 gen.26. Gratian. Caus.15.qu.6. Platina in Zach. 1. Frisin. l.5.c.12. Fabian, part.5 c. c.132. p.141. Amonius de gest. Franc. p. 403.* (*x*) *Hist. l.4. p.521.* (*) Though that of *Plinius secundus, Panegyr. Traiano dictus, p.8.* be true, *Quod aequiore animo ferunt homines quem Princeps parum feliciter genuit quàm quem malè elegit.* (*y*) *Polit. l.5. c.10.*

or make choice of a fitter King for the necessary preservation of the State; yea this election in point of *Policie* and *Divinity* too, is justified and provedlawfull by *Buchanan*, in his Book *de Iure Regni apud Scotos*; by *John Mariana*, *de Rege & Regis Instit. l.1. c.3,5.* by Pope *Zachary* in his forecited Epistle, by King *Edward* the *Confessor* in his Laws *c.17.* by a generall Councell of all the Peers, and Prelates of *France*; *Convocato enim Principum et Senatorum Concilio de* COMMVNI SENSV ET VOLVNTATE OMNIVN *Childericum solo nomine Regem à regni fastigio deponunt, &c. ac* OMNIBVS GAVDENTIBVS ET VOLENTIBVS, *Pipinum super Francos* REGNARE FACIVNT; writes (z) *Antoninus*: and in a word, our Bishop (a) *Bilson* himselfe, an Anti-Puritane, and great Royalist, affirmes, *That if the King be a naturall foole, distracted, and altogether unable to governe*, as *Childericke* was, *any Realme, by publicke consent and advice, may choose another to governe them*: of which more before.

(z) *Chron. tit. 14. c.1. sect. 1.1. 103.*

(a) *Of Christian subiection, par 3. p. 420.*

Pipin (b) deceasing, *Charlemain* and *Charles* the great, his sons, *reigned joyntly over the Frenchmen, by their joyous admittance*. Having now two Kings instead of one (c) *Lewes*, sirnamed the godly, sonne of *Charles the great*, (a pious, yet unfortunate Prince) by meanes of his sonne *Lothair*, *was first imprisoned, and then by a Councell and Parliament held at Compaygne, by authority of the spirituall and temporall Lords, and of that Parliament, discharged of all rule and dominion, as well of the Empire, as of the Realme of France*; *after that shorne a Monke, and thrust into the Monastery of Saint* Marke, *where he was strictly guarded*; and when some of the Nobles and people afterwards desired *Lothair* to release and restore him to his former dignity; he answered them: *That the deposing of him was done by the whole Authority of the Land*; *wherefore if he should be againe restored, it must be by the same Authority, and not by him onely*: After which by the *Lords assents hee was restored.*

(b) *Fab. par. 6. c. 154. Gaguin the Gen. Hist. of France.*

(c) *Fab. par. 6. c. 2. 4. Grimst. Imper. H. p. 390, 391. Gaguin The Gen. hist of France, Turpin Antoninus, Munst. Crespin, Papyr. Masson*, and others.

(d) *Lewes* and *Charles*, after *Lewes Balbus* their fathers death, were *joynt Kings of France*, and being very young, by a *Parliament held at Meaux, Lewes the Emperour, their Uncle, was declared to be more apt to rule the Kingdome of France, then these Infants, or Barnard their Guardian*, and these Children held by some illegitimate. Whereupon, *by the greater number of voyces* an Ambassadour was sent to the Emperour, to come *and take upon him the Rule of middle France*, which he comming to doe, his Nephewes friends compounded with him, and then caused these Infants to be crowned and proclaimed Kings.

(d) *Fab. par. 6. c. 175. Gaguin. Gen. hist. of France.*

(e) *Charles* the simple, at his Fathers death, *Anno* 895, being too yong to take upon him the charge of the Realme, the *Lords of France put him under good and convenient guiding, and of assent they chose Eudo, a man of great fame and worth, to be King of the Land, for the terme of his life, and to guide the Land, till Charles should come to his lawfull age, whom they put under Eudo his tuition, making him King in his stead, who was crowned* of *Walter* then Archbishop of *Senys*. After which when *Eudo* knew he should dye, he called before him the Lords and Nobles of *France*, charging them by solemne Oath, *that after his death they should immediately crowne Charles for their King* (whom he had brought up with diligence in learning and all Princely vertues) *being then of age to governe*. *Charles* comming to the Crowne, the *Danes* miserably wasted his Kingdomes; Whereupon his Nobles and people assembled themselves in sundry companies, and went to the King, *shewing their misery and blaming his fearfulnesse*

(e) *Fab. par. 6. c. 175. Gaguin. Gen. hist. of France, Hermo. Schedel, Crispin and others.*

fulneſſe and negligence, that he no more for him reſiſted the Danes cruelty; Whereupon (he out of feare belike, leſt they ſhould chuſe another King to protect them) compounded with Rollo chiefe Commander of the Danes, giving him all Normandy, and his owne Daughter in Marriage, to purchaſe peace; (f) *Charles* being afterwards ſlaine by *Hebert* Earl of *Vermendoyes*, *Algina* his wife miſtruſting the Frenchmen, flea ſecretly with her young ſonne *Lewes* (Heire to the Crowne) to *Edward* the *Elder* into *England*: Whereupon, *that the Land might not be without a Ruler, the Lords of France aſſembled at Paris, and there tooke Councell to elect a new King; where, after long debate, they named and crowned Raulfe, ſonne to Richard Duke of Burgundy King, as next Heire to the Crown but young Lewes:* *Raulfe* dying after he had reigned 12 yeares, the Nobles hearing that *Lewes* was alive in *England*, ſent for him into *France* and crowned him their King. (g) *Lewes* the 6. dying without iſſue, being the laſt King of *Pipens* blood (who enjoyed the Crowne 10. diſcents) *Hugh Capes* uſurped the Crowne, putting by *Charles* Duke of *Loraigne*, Vncle and next heire to *Lewes*, whom *by the Treaſon of the Biſhop of Laon*, he took priſoner: After which the Crowne continued in this *Hugh* and his Heires. (h) *Philip the 2. of France, by a counſell of his Prelates was excommunicated for refuſing to take* Ingebert *his wife, whom he unlawfully put from him, and to renounce* Mary *whom he had married in her ſtead*; And calling a Parliament, they concluded, that King *Iohn* of *England* ſhould be ſummoned to appeare as the French Kings Liege-man, at another Parliament to be holden at *Paris* within 15. dayes after *Eaſter*, to anſwer to ſuch queſtions as there ſhould be propoſed to him for the Dutchy of *Normandy*, and the County of *Angeou* and *Poytiers*; who not appearing at the day, *Philip* hereupon invaded and ſeized them: After which, (i) *Lewes* the 9. and *Henry* the 3. of *England* in a parliament at *Paris*, made a finall compoſition for theſe Lands.

(k) *Lewes the 10. being under age, was thought of many unſufficient to govern the Realm*; and when he had a mind to goe to the holy Warre (as it was then deemed) *he did not undertake it, but by the advice of his great Councell of Spirituall and Temporall Lords and perſons, who aſſiſted him therein.* (l) *Philip* the 4. in the 27. yeare of his Raigne, raiſed a *great Taxe throughout France, (which before that time was never heard nor ſpoken of) by his abſolute Prerogative, without conſent of his Eſtates in Parliament, which had the ſole power of impoſing Taxes:* Which Taxe all *Normandy*, *Picardy* and *Champaigne* allying themſelves together, *utterly refuſed to pay*: which other Countries hearing of, tooke the ſame opinion, ſo that a great rumour and murmur was raiſed throughout the Realme of *France*, in ſuch wayes, that the King for pacifying the people, *was faine to repeale the ſaid Taxe.*

(m) *Lewes* 11. of *France* dying without iſſue male, left his Queen great with child, whereupon *Philip* his *Brother reigned as Regent of France, till the childe was borne*, which proved a male, named *Iohn*: who dying ſoone after, *Philip* was crowned King at *Paris*, albeit, that the Duke of *Burgoyn* and others *withſtood his Coronation, and would have preferred the Daughter of King* Lewes. But other of the Lords and Nobles of France, *would not agree, that a woman ſhould inherit ſo great a Kingdome*, it being contrary to the Salique law: This *Philip* by *adviſe of evill counſell ſet a great Taxe upon his Commons to the Fifth part of their movable goods, at which they murmured and grudged wondrous ſore, and before it was levied, hee fell into a Feaver Quartan and great Flixe, whereof hee dyed: which Sickneſſe fell upon him*

(f) *Fabian, p. 6. c. 82, 183, 186, 201. Gaguin. Turpin, General Hiſt of* France

(g) *Fab. par. 6. c. 201. 202. Gaguin. Turpin, Chron Chron. Opmerus, Criſp. Gen. hiſt.* Fran.

(h) *Fab pa. 7. c. 243, 244. Gaguin. the. Gen. hiſt. of* Francee. *Turpin Theat. of honor, l. 2. c. 12.*

(i) *Fab. pa. 7. An. 1259. p. 68.*

(k) *Fab. pa. 7. p. 102, 103, &c. Gaguin.*

(l) *Fab. pa. 7. p. 187, 188. the Gen. hiſt. of France.*

(m) *Fab pa. 7. p. 187. 188. Gagu. Gen hiſt. of France.*

him by prayer of the Commons for laying on them the said grievous Taxe. (n) *Charles* the fifth of France, having a purpose to drive all the English out of *Aquitaine*, and other parts of his Kingdome; and being provided of all things which he thought necessary for the doing of it, *yet would not undertake the warre without the counsell and good liking of the Nobility and people, whose helpe he was to use therein: Wherefore he commanded them all to be assembled to a Parliament at* Paris *to have their advice, and by their wisdome to amend what had by himselfe not altogether so wisely been done, and considered of. And this warre being at last decreed by the Councell, prospered in his hand, and tooke good successe.* Whereas when the Subjects see things done, either without counsell, or contrary to the wills and decrees of the Senate or Councell, then they contemne and set them at naught, or else fearfully and negligently do the command of their Princes; of which contempt of Lawes, Magistrates, and seditious speeches ensue among the people; and so at length most dangerous rebellion, or else open conspiracy against the Prince, as *Bodin* observes. This (o) *Charles* dying without Issue Male, leaving his Wife great with Childe, *Philip* Earle of *Valoyes*, his Nephew, was *by the Barons and Lords made Protector and Regent of the Realme of France, untill such time as the Queene was delivered*; who being brought to bed of a Daughter onely, hereupon *Philip* was crowned King. Betweene him and King *Edward the third of England*, and their Councells, arose great disputations for the Right and Title to the Crowne of France; for it was thought, and strongly argued by the Councell of England, for so much as King *Edward* was sonne and sole Heire to his Mother Queene *Isabel*, daughter to King *Philip le Beaw*, that he should rather be King of *France*, then *Philip de Valoyes*, that was but Cousin German to *Philip le Beaw*: Of which disputations, the *finall resolution of the Lords and Parliament*, was, *That for an old Decree and Law by Authority of Parliament long before made*, (which the English much oppugned) *that no woman should inherite the Crowne of France; therefore the Title of* Edward *by might of the Frenchmen, was put by; and* Philip *by an Act of the whole French State, (by which his right was acknowledged) admitted to the Government of the same.* After which one *Simon Poylet* was hanged in Chaines, Headed, and Quartered at *Paris*, for saying in open audience, that *the right of the Crowne of France belonged more rightfully unto King* Edward, *then to King* Philip; who had long warres about these their Titles to the Crowne.

(n) Bodin. Commonweal. l. 3 c. 1. p. 214. See the generall Hist. of France in his life.

(o) Fabian. part. 7. p. 192, 193, 261, 274. Speeds Hist. p. 687, 6 486, 787, 788. Halls Chron. 2 H. 5. See the generall Hist. of France, and Gaguinus in the life of Iohn.

King (q) *Iohn* of France, in the fifth year of his reigne, had by authority of the three estates of his Realme assembled in Parliament (to wit of the spirituall Lords and Nobles, and Heads of Cities and good Townes of his Kingdome) 3000 men waged for a yeare, granted to him to defend him and his Realme, against *Edward* the third King of *England*; who the next yeer following took King *Iohn* prisoner in the field: Wherenpon *Charles* Duke of *Normandy*, his eldest sonne, and Heire apparent, assembled the 3 Estates at *Paris* in a Parliament there held, craving aid of them to redeem their captivated King; who promised their uttermost helpe herein, desiring convenient time to consult thereof: Which granted, the three Estates holding their Councell at the *Gray Fryers* in *Paris*, appointed fifty persons among them to take view, and make search of the grievances and evill guidance of the Realme; who after examination appointed six of themselves to acquaint the Duke, *That the Realme before time had beene misguided by ill Officers, and except remedy for it were shortly found, it should stand in perill to be lost; wherefore they besought him to discharge all such as they*

(q) Fabian. part. 7. p. 280, to 298. Gaguinus, the generall Hist. of France, in the life of this Philip and King Iohn.

they would name unto him, and over that to forfeit their Goods to the Kings use. And first they name *Peter* Archbishop of *Roan*, Chancellor of *France*, Sir *Simond de Bury*, chiefe Counsellor of the King and Parliament too, Sir *Robert de Lorize* before time Chamberlaine to the King, Sir *Nicholas Brake* Master of the kings Palaces, *Engueram* Burgesse of *Paris* & under Treasurer of *France*, *John Pryll* Soveraigne of the money & Kings accounts, and *John Channeon* Treasurer of the Kings wars. All which Officers they would should be discharged all ro; all Offices for ever: Also they would that the King of *Naverne* (then imprisoned by the King of *France*) should be set free, and that *Duke Charles himselfe would be contented to be advised and counselled by such as they should appoint unto him; namely, by foure Prelates, twelve Knights, and twelve Burgesses, which eight and twenty persons should have authoritie to rule and ordaine all things necessary for the Realme, to set in and put out all Officers appertaining to the Realme, with divers other requests which unto the Duke were nothing agreeable:* Vpon which requests the Duke gave answere, *That he would counsult with his Councell, and thereupon would shape unto them some reasonable answere.* But first he desired to know, what aide the three Estates would give unto him, for delivery of his Father: Whereunto was answered, that the Clergie had given a *disme* and a halfe to be paid in a yeare, with that, that they may have license of the *Pope*, and the Lords as much to be levied of their lands, and the Commons the tenth penny of their moveable goods. The morrow following the *Duke* and his Councell met, and after many Messages betweene them and the three Estates, offers to reforme some part of the Articles. But the Estates firmely answered, *That unlesse he would reforme all the said faults, and confirme the said Articles to their minde, for the Commonwealth of all the Land, they should not aide him with their Goods, like as they shewed him.* The *Duke* hereupon *secretly acquainted King* John *of these proceedings, who wrote to him againe*, that in no wise he should agree to the said requests, and to the end that these matters should not be touched in open Parliament, he deferred the debate of them from day to day; and at last by advice of his Councell, dissolved the Parliament of the three Estates, and commanded every man to returne home without any effect of their long counsell: *Wherewith many of the said persons were grievously miscontent, saying among themselves, that they perceived well this was done by the Duke to the intent the requests by them devised, should not take place, but that the old misgovernance might continue like as before times it had done:* Wherfore divers of them assembled againe at the *Gray Fryers*, and there made out divers Copies of the said requests, to bear them into their Countries, and shew them unto the good Townes. And albeit the *Duke* after this Councell thus dissolved, *asked ayde of the Citie of* Paris, *and other good Townes to maintaine his wars; he was plainly answered, *That they might not ayde him, unlesse the three Estates were againe reassembled, and that the grant of the ayde might passe by their authority*: Whereunto the Duke in no wise would agree. In the mean time the 3 Estates of *Languedock* assembled in their Province by the *Earl of Armenake*, the Kings Lieutenant, to *make ayde for the Kings deliverance*, agreed to purvey at their proper costs 500 men at Armes, with a furniture to every speare, and a 1000 souldiers on horsbacke, 1000 *Arbalestres*, and 2000 others called *Gunsiers*: all which to be waged for a whole yeare; and farther ordained, that *no man should weare any furres of great price: that women should leave the rich attire off their heads, and weare neither pearle nor gold upon them, nor silver in their girdles; and that all*

(*) Note this.

manner

manner of Minstrelsie should be put to silence, so long as the King remained prisoner. The Duke and his Counsell after this, proclaimed at *Paris* certaine coynes and values of money, newly ordained by them; with which Proclamation the Commons of the City were grievously moved: And for reformation, the *Provost of the Merchants* with others, rode to the Earle of *Angeou* the Dukes Brother and Lieutenant, (who was then absent at *Meaux*) *requesting him to cease the use of that money; And if not, they would use such meanes, that it should not be suffered to be put forth nor taken within the City.* Whereupon after long debate it was agreed, *that the money should be stopped till the Dukes pleasure was knowne*: Vpon whole returne, the Dukes counsell sent for the Provost, and *desired him to suffer the said money to run and be currant throughout the said City*; *Which, the Provost with his company utterly denyed*: and after many great and bold words, departed from the Counsell in great ire, and after their returne unto the City, incensed so the Commonalty, that they set apart all workmanship and Occupation, shutting in their Shops, and drew unto their Armour and Harnes. The Duke informed of this murmure of the Commonalty of the City, straitly commanded the Provost, that the Kings peace were kept within the City; and that he with certaine Citizens should appeare at the Palace before him and his Counsell the next day, at an houre assigned: at which time the Provost with his company came and were conveyed into the *Parliament* Chamber, where the Duke and his Counsell were present. Then the Duke after certaine Challenges made to the *Provost* for his obstinacy and misleading the Commonalty of the City, said: *That, albeit the King by his* Prerogative, might at his pleasure, and for his advantage, make his monies when he would, and so to suffer them to be currant thorow his Realme; yet for the weale and ease of his Subjects, considering their manifold and late charges, he was content, that at this season, this new money should be spared; and that the 3. estates should be againe assembled, and that they should deprive all such persons then bearing Offices as they should thinke prejudiciall to the Realme, and over that, to ordaine such Money as might be beneficiall for the Land:* Of all which Grants the *Provost*, to the intent, that he might of authority shew them unto the Commonalty of the Citie, desired a writing: The which the *Duke* to appease the people, though it were much contrary to his minde and his pleasure, granted unto his request. The thirtieth day of *January* ensuing, the Duke, at the request of the said Provost, sent certaine Officers to the houses of *Simon de Burg*, and others accused of misgoverning of the Realme, whose houses the said Officers seized and made Inventories of their goods: That done, the Duke sent out Commissions, and assembled the Three Estates againe at *Paris*, the 15. day of *February*: Where, in the parliament chamber in the presence of the Duke, Estates, and divers Nobles, *Robert Coke* Bishop of *Laon* by command of the Duke, made a long Oration, *of the misguiding the King and the Land by meanes of evill Officers, as well by changing of money, as other many unlawfull Excises and Taxes, to the great impoverishment of the Commonalty of the Realme, and to the singular enriching and advancement of the said Officers; Wherefore the Three Estates prayed, that all such Officers may be removed from their Offices, and other that shall be thought more beneficiall for the King and his Realme to be admitted: Of which Officers the Archbishop of* Roan (then newly made Cardinall) *was noted for one, and other to the number of* 21. *whereof some were right neere to the Duke.* After which Oration, Sir *John de Pigquine*, in the name of the Three Estates offered, *That the Three Estates should finde*

* So it hath been conceived by some, the King by Law might do this in *England* but Sir *Edward Cooke in his Institutes on Magna Charta, f.* 575. *to* 579. hath largely proved the contrary; that the King by his Prerogative and Proclamation cannot alter, enhanse or abase his coyne, but in and by the Parliament onely, because it is contrary to sundry Statutes, it is the sinues and life of trade, and every mans estate consists in it, and so all have a common interest therein, which cannot be altered but by common consent in Parliament.

finde to the King 30000. men for an whole yeare, so as all things might after that day be ordered as the Bishop had before devised: All which Articles were unto them by the Duke granted, and incontinently all such Officers as they before had named were clearly avoided, and other such, as by the said 3. Estates were thought most necessary, were put and chosen to their roomes, except that some of the old (as Masters of Accounts and some of the Presidents and Masters of the Requests) were holden in for a time, to shew unto the new, how they should order and guide their said Offices: And the 26 of March was a new money proclaimed thorow Paris, such as the said 3. Estates had newly devised. The King informed of this, sends the Archbishop of *Sennes* and two Earles from *Burdeaux* where he was prisoner, with a Proclamation, which they caused to be proclaimed in *Paris* the 6. of *April*, That the people should not pay such Subsidies, as the 3. Estates had ordained for the waging of the 30000. men aforesaid, or for the Kings fine; and also that the 3. Estates after that day should no more assemble for any causes or matter before touched, till they had farther knowledge of the Kings pleasure: For which Proclamation the Citizens of *Paris* much blamed the said Bishop and Earles, who purchased it, who as soone as this Proclamation was made, for feare of the people, fled from *Paris*. Upon this Proclamation the Commons waxed so mad, that they left their occupations, drew them to Conventicles and Companies, and used many unfitting words of the King and his Counsell: Whereupon to avoid inconvenience, the Duke commanded a Watch to be kept in the City day and night, and certaine Gates of the City to bee kept shut. Vpon the 9. day of *April*, another Proclamation was made all contrary to that other. By vertue whereof, it was charged, that the fore-said Subsidies should bee levyed, and also that the 3. Estates shouldre-assemble at Paris, the 5. day after Easter, and there to proceed upon all such matters as were before by them began. When the Estates meet againe there grew a difference between them and the Duke, about the subsidies for the finding of 30000. men, the summe assessed for that purpose being too small by much, the Clergy and Lords then refusing to pay any more then they were first sessed unto: By meanes of which difference, the assembly of State was dissolved. Whereupon strait command was given by the Duke to the Provost of *Paris* and others (who bare principall sway within the City, and were great stricklers and doers in the Assemblies of the 3. Estates, so that much of the businesse was ruled by them and their meanes;) that they should cease their Authority, and not to deale any more with the rule of the Realme, but onely with the good rule and government of the City of *Paris*: That done, the Duke rode about to divers good Townes, making request to them for ayde, and to have this new money currant among them. But he sped little of his purpose. Then shortly after he assembled at *Paris* certaine person of 20. or 30. Townes next adjoyning, with whom he held a Counsell for sundry dayes; who in the end shewed him; that they might bring nothing to effect without the assembling the 3. states, besought him that they might be eft-soon assembled, trusting that they would then satisfie his minde: Upon which the Duke sent forth Commissions, charging the said 3. Estates to appeare before him at *Paris* the next Wednesday after All Saints day; which they did, where the Duke condiscending to their former Articles he gave the King of Navarre and the 3. Estates full content; who promised that they would demeane themselves to his Father and him, as true and dutifull Subjects; and advising him to take upon him the Government of the Realme, they created him Regent of France, during his fathers imprisonment. After this hee assembled the Estates and chiefe

chiefe Burgesses of Cities at *Paris*, and acquainted them with the King of *Englands* large demands for his fathers inlargement; *which were so displeasing to all the company, that they answered, The said Treatie was neither honourable nor profitable: And rather then the King should binde him and his land to such inconveniences, they would prepare to make sharpe Warre against* England: *whereupon they granted to finde divers thousands of men at Armes, at their owne costs, for certain moneths, to relieve the King:* And at (*q*) another Parliament assembled when *John* was dead, and *Charles* came to the Crowne, they granted an excise of every 4 penny of all things bought and sold for the maintenance of his warres, the spiritualty granted him a *disme*, and the Lords and Gentlemen were stinted at a certaine. And in the eleventh yeare of his reigne, he assembled his great Councell of Parliament at *Paris*, where among many Acts made for the weale of the Realme; he, *with the assent of the Lords and Commons there assembled*, enacted for a Law after that day to be continued, *That all Heires of the Crowne of* France, *their fathers being dead, may be crowned as Kings of* France, *so soone as they attained to the age of fourteene yeares.* And in the fifteenth yeare of his reigne, the (*r*) *Duke of Flanders* granted to those of *Gaunt* such Articles of agreement, *for the confirmation of their liberties, the repealing of* illegall taxes, *the electing of their owne Officers, the Dukes Councellours, and the like* (which you may read in *Fabian*) as plainly manifest this whole Dukedome and people to be of greater jurisdiction then himselfe, though invested with regall authoritie, and that he had no power to impose any taxes on them, without their grant and consent; the contrary whereof caused many bloudy warres among them.

(q) *Fabian, part.7.p.305, 306, 311, 312. Generall Hist. of France, Gaguin. and others.*

(r) *Fabian. part.7 p.307. sec p.190, 191, 266, 477, &c. 355, 326, 357, 358, 359, 460. Hollingham, Hist. Angl. p. 235, 236.*

Charles (*s*) the seventh (after *Fabians* account, but sixt after the *French* History) a Childe of thirteene yeares, by reason of the difference between the Lords who should be Vicegerent, was by the advice of the major part of the Lords, for the common good of the Realme, Crowned at *Raynes* within the age of fourteen yeares, contrary to a Law made in the eleventh yeare of his Father. In the fourth yeare of his reigne, the Citizens of *Paris* murmuring and grudging for divers impositions and taxes unduely leavied upon them, suddenly arose in great multitudes, intending to have distressed some of the kings Houshold: Whereupon soone after, the Kings Councell considering the weaknesse of the Treasure, and his great charges and needs; *and assembling a Parliament of the Rulers of* Paris, Roan, *and other good Townes*, exhorted them to grant the King in way of Subsidy, twelve pence in the pound, of all such Wares at that day currant, for the defence of the Realme and subjects. To the which request, after consultation taken, it was answered; *That the people were so charged in time past, that they might not beare any more charges till their necessity were otherwise relived:* and so the King and his Councell at this time were disappointed. In his seventh yeare, by the *Duke* of *Angeau* his procuring, a tax was laid upon the Commons of *France* (without the three Estates:) Which to bring to effect, many friends and promoters were made, as well of Citizens, as others. Whereupon the Commons of *Paris* and *Roan* became wilde, assembled in great companies, chose them Captains, and kept watch day and night, as if enemies had been about the Citie; utterly refusing to pay that Tax. This *Charles* being none of the wisest Prince, ruled by his houshold servants, and beleeving every light Tale brought unto him, (*t*) marching against the *Duke* of *Brittaine*, as he came neare a wood, was suddenly met of a man like a Beggar, which said unto him, *Whither goest thou Sir King? beware thou*

(s) *Fabian. ibid. Generall Hist. of France, p. 226 227, 228, 229.*

goe no further, for thou art betrayed, and into the hands of thine enemies thine owne Army shall deliver thee. With this monition the King was astonied, and stood still, and began to muse. In which study one of his followers that bare his Speare, sleeping on Horsback, let his Spear fall on his fellowes Helmet; with which stroke the King was suddenly feared, thinking his enemy had come unawares upon him; wherefore in anger he drew his sword, slew foure of his owne Knights ere he refrained, and took therewith such a deadly fear, as he fell forthwith distracted, and so continued a long season, being near at the point of death. Whereupon his brother *Lewes* of *Orleans*, being but young, the States of *France* thought it not convenient to lay so heavy a burthen upon so weake shoulders; wherefore his two Vncles the *Dukes* of *Berry* and *Burgoine*, *BY AVTHORITY OF THE STATES OF THE LAND*, specially assembled in Parliament upon this occasion, tooke upon them to rule the Realme for that season, it being ordered by a speciall Law, that *they should abstain from the name of Regent, unfit in this sudden accident, the King being alive, and of years:* And because the *Duke* of *Berry* had but an ill name, to be covetous and violent, and was therefore ill beloved of the *French*, his younger brother *Philip Duke* of *Burgoyn*, had the chiefe charge imposed on him; and though the Title was common to both, yet the effect of the authoritie was proper to him alone, *who changed divers Officers.* After which the *Duke* of *Orleance* was made Regent, being the Kings younger brother, who pressing the people with quotidian taxes and tallages, and the spirituall men with dismes and other exactions, he was at length discharged of that dignitie, and the *Duke* of *Burgoyne* put in that authoritie. After this our King (*u*) *Henry* the fift, gaining a great part of *France*, and pretending a good title to the Crowne (recited at large by (*x*) *Hall* and *John Speed*) the Frenchmen to settle a peace, made this agreement with King *Henry:* (*y*) *That he should marry* Katharine *the French Kings daughter, and be admitted Regent of* France, *and have the whole government and rule of the Realme, during* Charles *his life, who should be King of* France, *and take the profits of the Crowne whilest he lived; and that after the death of* Charles, *the Crowne of* France, *with all rights belonging to the same should remaine to King* Henry, *and to his Heires Kings: That the Lords spirituall and temporall, and the Heads and Rulers of Cities, Castles and Townes, should make Oath to King* Henry, *to be obedient to his lawfull commands concerning the said Regency, and after the death of* Charles *to become his true subjects and liegemen; That* Charles *should in all his writing name King* Henry, *his most deerest sonne,* Henry *King of* England, *and inheritour of the Crowne of* France; *That no imposition or tax should be put upon the Commons of* France, *but to the necessary defence and weale of the Realme; and that by the advice of both Councels of the Realmes of* England *and* France, *such stablished Ordinances might be devised, that when the said Realme of* France, *should fall to the said* Henry, *or his Heires, that it might with such unity joyne with the Realme of* England, *that one King might rule both Kingdomes as one Monarch; reserved alwayes to either Realme all Rights, Liberties, Franchises and Lawes, so that neither Realme should be subject unto other, &c.* Which Articles were ratified and agreed with the consent of the more part of the Lords spirituall and temporall of *France*: But (*z*) *Charles* dying, his sonne *Charles* the eight, was by some part of *France*, and many Lords, reputed and knowledged King, but not crowned whiles the *Duke* of *Bedford* lived and remained Regent, our *Henry* the sixth, both in *Paris* and many other

(*u*) *Chron. 2. & 5. H. 5.*
(*x*) *Hist p. 786. to 782.*
(*y*) *Fabian. part. 7. p. 399, 400, 475. Generall Hist. of France, Holingshed, Fabian, Walsingham, Grafton, Hall.*
(*z*) *Fabian, part. 7. p. 475, 478. Generall Hist. of France, Hall, Holinshed, Speed.*

other cities, being allowed for king of *France*. After his death, his sonne (a) *Lewes* the eleventh, (as *Fabian* accounts) by strength of friends was crowned king of *France*; who refused the counsell and company of his Lords, and drew unto him, as his chiefe Councellors, villaines and men of low birth, as *Iohn de Lude*, *Iohn Balua*, *Oliver Devill*, (whose name for odiousnesse he changed into *Daman*) with others, whom he promoted to great honours and places: VVhereupon the Lords murmured, and were so discontented, that the *Duke of Brittaine*, and others, withdrew them from the king, and refused to come unto his presence when he sent for them, raising a great power: And when no peace could be mediated betweene the king and them, they met in a plaine battell at *Chartres*, where many were slaine on both sides, but the king lost the field. After which an accord was made betweene them, but the king continued his old courses, delighting more in the company of lewd, irreverent persons, to eate and drink with them, and to heare them talke of ribaldry and vicious fables, then to accompany his Lords, which might have won him much honour, going liker a *Serving man* then a *Prince*: and being a great oppressor of his subjects to maintaine his prodigality, for lack of money, he was driven of necessitie to aske a preste of the citizens of *Paris*; who, after many excuses, which might not be allowed, they lastly denyed the kings pleasure. VVherewithall he being grievously discontented, removed divers from their offices, and put many of the richest and head men of the citie to death, upon surmised causes, without proofs of justice: *For which causes, and many other oppressions, the Lords againe assembled their people, intending to subdue the king, and to set his brother in his place, or to cause him otherwise to rule the Commonwealth:* To which end all the Lords met at a Towne called *Stampes*, where they continued their Councell fifteene dayes, and then marched to *Paris*, sending four severall letters unto the citie; one to the Bishops and spirituall men, the second to the Consulls and headmen, the third to the Vniversitie, the fourth to the Commonalty, signifying, *That neither they nor any of their company were come thither as enemies to the Citie, or to warre against it, or the Commonwealth of the Land; but for the increase and augmentation thereof to the uttermost of their powers.* VVhereupon these foure parties sent certaine Orators for them to the Lords, who after long communication with them had, returned to the citie with this report; First, *the Lords would that the inhabitants of the City should consider the conditions of the King, which yearly oppressed his Subjects with taxes and other grievous servages.* Secondly, *how he despised the noble bloud of his Realme, and drew to him villaines and men of no reputation, by whose counsell onely all the Common-weale of the Land was guided and ruled.* Thirdly, *how hee ruled his Subjects by force and will without administration of justice, and himself in all Counsels and Parliaments is Iudge of all causes, and calleth himselfe Counsels and Parliaments more for this singular weale then for the Common-weale of his Realme.* Fourthly, *how he enhaunsed men of low birth to great honours, and caused Noblemen to be obedient unto them, intending to bring the said ignoble men to be equall with the Princes of the Land.* Fifthly, *how the Lawes be delayed and bolstered by such as stand in his favour, wherethrough at this day Law is will, and will is Law, and no man almost in any surety of life or goods; insomuch that daily many have been banished and put to death for unlawfull causes, and also to any Noble-man at this day no power or roome of honour belongeth; so that to the wild Beasts in the Forrests appertaineth more Liberty and surety then to the more*

(a) *Fabian, part. 7. p. 479, 480, 481, 488. Generall Hist. of France.*

party of the Kings subjects. Sixthly, *The great taxes and summes of money which daily be levied of the Commons be not spent in the Kings honourable needs, and for the Commonweale of the Realme, but are spent vainly and riotously, and bribed out of the Kings Coffers; for which enormities and misgovernance with many other, the said Lords were come thither in defensible wayes for the safeguard of their owne persons, as to the head and principall City of the Realme, for to have aide and Counsell, to reforme the foresaid evills, not intending any harme to the Kings person, or yet to remove him from his regality or Kingly Majestie; but to induce and advertize him to that which should be for his honour and the weale of his Realme, and to live in wealth and honour, as his Noble Progenitors lived before him; For which causes and considerations, the said Lords, as the Kings true Subjects, and friends to the Commonwealth of the Land, and of that City, desired to enter there to refresh them and their people, and to pay truly for all things they should take, without doing harme or violence to any person.* All which requests and matters of the Lords shewed to the Inhabitants of the City, by favour of some friends they there had, *it was with the more partie well accepted, and thought convenient they should be received into the Citie;* but by meanes of the Earle of *Davoise* it was respited, till they had further knowledge of the Kings pleasure: who comming out of *Normandie* into, *Paris* after diuers Skirmishes, the King and Lords fell to a Treaty of peace, whereupon Commissioners on both sides assembled and communed together by sundry times two dayes; *In which season new strength of Souldiers came to the King out of Normandy. The Treatie hanging long, and a longer Truce being proclaimed, the souldiers fell to robbing, and other unlawfull acts; and at last, through obstinacy on both parties, all offers were refused, and the day of the Truces expiration approached, without hope of accord; whereupon provisions for warre were made on both sides.* Then begun grudges and murmures betweene the kings souldiers and the citizens of *Paris:* and shortly after newes came to the king, that the Castle and Citie of *Roan* was yeelded up to the *Duke of Burbon:* VVhereupon *the King considering what great advantage the Lords had of him, both by strength and favour of the Commons, which daily drew unto them by sundry companies, in avoiding of more danger, concluded a peace:* which being proclaimed thorowout all *France*, the King and Lords met, to whom the King shewed great semblance of kindenesse, specially to his brother *Charles* Duke of *Normandy*; *wherein appeared great dissimulation*, *Lewes* being of such conditions, *That what he might not overcome with strength, he would win with dissimulation and treachery.* Not long after the King warred upon *Charles* his brother, the Duke of *Burgundy* and *Brittaine*, and a Treaty of peace being propounded betweene them, *Charles* answered, *That if a perfect concord should be established betweene the King and him, it should be authorized by the whole consent and counsell of the Barons of the Realme.* VVith which the King being content, at *Turon*, in the moneth of *April*, a d tenth yeare of his reigne, assembled a counsell of his Lords spirituall and temporall, in the which the demands of *Charles*, and offers of the king were shewed: And after the said Councell had at length reasoned the said demands and offers, it was finally determined, *That the Dutchy of* Normandy *was so appropriated unto the King of* France, *and to his heires, that in no wise it might be disseuered from the Crowne; but that a perfect unitie might be had betweene the King and his brother, the King should be instanced to give yearly to his brother in recompence of the said Dutchy,* 12000 *pounds of* Turon *money, with certain land to be assigned with the*

name

name of a Duke, and 40000 annuall rent of like money during his naturall life, for such portion as he claimed to be his right, within the Realme. To all which the king agreed, and to pardon the Duke of offences against his Majestie, and all such Lordships as he had wonne from him in *Britaine*, to restore: which offers *Charles* refusing, was the yeare following contented with the *Dutchy of Guyan* onely, and so the warre of *Normandy* ceased. After *Lewes* his death most of his speciall and deareſt beloved Servants and ill Councellours (whom he specially recommended to his sonne *Charles* the ninth on his death-bed) came to disgracefull ends: (*b*) *Oliver Damman* was beheaded for Treason, and *John Doyacon* for trespasse and hatred unto the common people by his desert, was with all shame brought to the Market place at *Paris*, and there bereft of both his ears, and then banished the Court for ever; by reason whereof arose this proverbe among the Frenchmen, *Principibus obsequium hereditarium non esse*, The favour of Princes is not hereditary. (*c*) *Philip de Commines* living under *Lewes* the eleventh, and *Charles* the eighth, by whom he was made Lord of *Argenton*, being in high favour with them, and a great Councellor of State, hath this notable passage, against the French Kings power then to impose any taxes on their Subjects, without their free assents in a Parliament of the 3. Estates, though the contrary be now daily practised, to the intollerable grievance of the subjects; (*c*) *Is there any King or Prince that hath power to leavie one penny upon his subjects, besides his demains, without leave or consent of those that must pay it, unlesse it be by tyrannie and violence? A man will say, that sometime a Prince cannot tarry to assemble his Estates, because it would require too long time. Whereunto I answere, That if he move a Warre offensive, there needeth no such haste, for he may have leisure enough at his owne pleasure to make preparation; and further, he shall be much stronger, and much more feared of his enemies, when he moveth warre with the consent of his subjects, then otherwise. Now as touching a warre defensive, that Cloud is seene long before the tempest fall, especially when it is a forraine warre; and in this case good subjects ought not to complaine, nor to refuse any thing that is laid upon them: Notwithstanding such invasion cannot happen so suddenly, but the Prince may have leisure at the least to call together certaine wise personages, to whom he may open the causes of the warre, using no collusion therein, neither seeking to maintaine a trifling warre upon no necessitie, thereby to have some colour to leavie money. Money is also necessary in time of peace, to fortifie the Frontiers, for defence of those that dwell upon them, lest they be taken unprovided, but this must be done measurably. In all these matters the wisdome of a sage king sufficeth, for if he be a just Prince, he knoweth what he may do, and not do, both by Gods Lawes and mans. To be short, in my opinion, of all the Seniories in the world that I know, the Realme of* England *is the Countrey where the Commonwealth is best governed, the people least oppressed, and the fewest buildings and houses destroyed in civill warre, and alwayes the lot of misfortune falleth upon them that be authors of this warre: Our King is the Prince in the whole world that hath least cause to alledge, that he hath privileges to leavie what he listeth upon his subjects, considering that neither he nor any other Prince hath power so to doe; and those that say he hath, do him no honour, neither make him to be esteemed any whit the mightier Prince thereby, but cause him to be hated and feared of his neighbours, who for nothing would live under such a government: But if our King, or those that seeke to magnifie and extoll him, should say, I have so faithfull and obedient subjects that they deny me nothing I demand, and I*

(*b*) *Fabian. part. 7 p. 49, 521, 522, 523.*

(*c*) *Phil. de Com. l. 5. c. 18.*

Note.

am more feared, better obeyed, and better ſerved of my ſubjects, than any other Prince living; they endure patiently whatſoever I lay upon them, and ſooneſt forget all charges paſt. Thus (me thinkes, yea, I am ſure) were greater honour to the King, then to ſay, I leavie what I liſt, and have priviledge ſo to doe, which I will ſtoutly maintaine. King Charles the fift uſed no ſuch termes, neither did I ever heare ſuch language proceed from any king, but from divers of their ſervants, who thought they did their Maſter great ſervice in uttering ſuch ſpeeches; but, in mine opinion they miſbehaved themſelves towards their Prince, and uſed ſuch language, partly becauſe they would ſeeme to be good ſervants, and partly becauſe they knew what they ſaid. But for a manifeſt proofe of the French mens loyaltie and obedience to their Prince, we need alledge none other example then that we have ſeene our ſelves of late by experience, when the Three Eſtates were aſſembled at Towrs, *after the death of our Maſter King* Lewes *the eleventh, which was in the yeare of our Lord,* 1483. *A man might have thought this good aſſembly to be dangerous for the kings eſtate; yea, and divers there were of mean calling, and leſſe honeſty: that ſaid then, and often ſaid ſince, That it is Treaſon to make mention of aſſembling the Eſtates, and a thing tending to the diminiſhing of the Kings authoritie; but themſelves are thoſe that worke Treaſon againſt God, the king, and the Commonwealth; neither doe any uſe theſe ſpeeches, but either ſuch as are in authoritie without deſert and unworthy thereof, or ſuch as are common Tale-carriers, and accuſtomed to talke of trifling matters, or ſuch as feare great aſſemblies, leſt their doings ſhould there be ripped up and reprehended, &c.* (d) *Charles* the eighth of *France*, beeing but thirteene yeares of age when the Crowne deſcended to him; hereupon in the year 1484. *a generall Parliament was held at* Towrs, with more free acceſſe then had beene uſuall, yet not ſo effectuall as was expected, every one ſeeking rather to maintaine his private authoritie then to procure the peoples eaſe. In this Paliament the *pragmatick ſanction* was reſtored, to uſe it as they had accuſtomed. The Conſtables ſword was given to the *Duke* of *Bourgon*, the government of the Kings perſon to his Siſter, a cunning woman, and ſomewhat of her fathers humour; but the name of *Regent* was forbidden to them all, to prevent jealouſies: *and there was a Counſell enacted of Twelve, by whom matters ſhould be diſpatched in the kings name*; of the which *Lewes* Duke of *Orleance* ſhould be Preſident. *Lewes* diſcontented with the device, ſeekes to hold his ranke; he pretends, that being the firſt Prince of the blood, the *Regency* belonged unto him: he aſſiſts at the Councell in Parliament, and in the aſſemblies in Towne, and notwithſtanding the laſt VVill of King *Lewes*, and the *Decree of the Eſtates*, yet will he by force have the name and effect of *Regent*. VVhereupon diſcontents ariſing, he leaves the Court in diſcontent, and raiſed a civill warre. However, the Eſtates ſetled the Regencie and affaires of the Realme. (e) *Anno* 1525. *Francis* the firſt King of *France* was taken priſoner by the Emperour *Charles* the fifth in the Battell of *Pavia*; who by mediation of Friends for his enlargement, ſent the Earle of *Reux* his Lord Steward, to offer the King Liberty, *ſo as he would reſigne all the rights he pretended in Italy; reſtore the Dutchy of Burgongne, as belongeth to him by right, with Provence, and Dolphine for the Duke of Bourbon, to incorporate them with other Lands which he had formerly enjoyed, and to make all together a Kingdome.* Moreover the Emperour offered to give him his ſiſter in marriage, propounding many other conditions, ſo abſurd and void of reaſon, as it is better to let the curious reade them in the Originalls themſelves. Amongſt all loſſes, that of Liberty toucheth neereſt

Note.

(d) *Gen. hiſt. of France. p. 421. 423.*

(e) *Gen. hiſt. of France, p. 575. to 580. Grimſt. Imper. hiſt. p. 647, 648.*

rest; but *Francis* having learned to withstand all adversity with a constant resolution, said, *I will dye a Prisoner rather then make any breach in my Realm for my deliverance, whereof I neither* WILL NOR CAN *alienate any part without the consent of the Soveraign Courts and Officers, in whose hands remains the authority of the whole Realm. We preferre the generall good before the private interest of Kings persons. If the Emperour will treat with me, let him demand reasonable things which lye in my power, then shall he finde me ready to joyne with him, and to favour his greatnesse.* The Emperour seeing the King constant in this resolution, in the end yeelded to his delivery, upon these termes, *That within six weekes after his delivery he should consigne the Dutchy of Burgongne to the Emperour, with all the dependancies, as well of the Dutchie, as of the County, the which should hereafter be sequestred from the Soveraignitie of the Realme of France; That he should resigne to the Emperour all his rights pretended to the Estates of* Naples, Milan, Genoa, *and* Ast: *That he should quit the Soveraignty of* Flaunders *and* Arthois, *&c.* Hereupon the King being enlarged, and arrived at *Bayonne*, he was required, *to ratifie the Accord, which he had promised to doe when hee came to a free place:* but he delayed it with many excuses, giving the Emperour to understand, *that before he proceeded to such an act, it was necessary that he should pacifie his Subjects, who were discontented with bonds which tended to the diminution of the Crowne of France, &c.* After which, the *Pope* and the *Venetians* sending Messengers unto him, he complained of the Emperour, *that he had wronged him in that he had forced him to make impossible promises, and that he would be revenged if ever occasion were offered; and that he had often told him,* * *that it was not in the power of a French King to binde himselfe to the alienation of any thing depending of the Crowne, without the consent of the Generall Estates: that the Lawes of Christians did not allow, that he which was taken in Warre should be detained in perpetuall prison, which was a punishment proper to Malefactors, and not for such as had bin beaten by the cruelty of fortune: that all men knew that Bonds made by constraint in prison, were of no value, and that the capitulation being of no force, the oath likewise which was but accessary, and the confirmation of the same could not be bound: that by the oath which he had taken at* Rhemes at his Coronation, *he was bound (according to the custome of other Kings of France) not to alienate the patrimony of the Crowne; and therefore for these reasons he was no lesse free then ready to abate the Emperors pride.* The Emperor growing jealous of the Kings delayes, for ratification thereof sent one unto him, to be certified of his intent, who found him very unwilling to leave *Burgundy*; which being very prejudicall to the Crowne of *France*, he said, *was not in his power to observe; and that hee could not alien the Bourguinans without their assents in an assembly of the Estates of the Country, which he intended to call shortly to know their minds.* By which it is most apparent, that the Kings of *France* have no power at all to dispose of their Crown lands or alienate them to others (as other Subjects may doe) because they hold them onely in the right of their Crowne for their Kingdomes use and service, the true proprieters of them. Upon which very ground (*f*) *Philip Augustus* King of *France*, *Anno* 1216. in a solemne Assembly of the States at *Lyons*, told *Walo* the Popes Legate (who came to prohibit his Sonne *Lewes* to goe to receive the Crowne of *England*, because King *John* had resigned it to the Pope;) *That no King or Prince can give away his Kingdom without the consent of his Barons, who are bound to defend the Kingdome; and if the Pope decreed to defend this errour, he should give a most pernitious Example to all kingdomes:*

* Nota.

(*t*) *Matthew Paris*, p. 270, 271.

domes: Whereupon all the Nobles of France began to cry out with one mouth, *That they would stand for this Article unto death, That no King or Prince by his sole pleasure could give his Kingdome to another, or make it tributary, whereby the Nobles of the Realme should be made servants:* And the next day *Lewes* his Advocate alledged, *that King Iohn for his homicides and many other enormities, was justly rejected by his Barons, that Hee should not reigne over them. That he could not give the Crowne of England to any one without the assent of his Barons; and that when he had resigned it, he presantly ceased to be a King, and the Kingdome became void without a King, and being so vacant could not be disposed of without the Barons, who had lawfully elected Lewes for their King: who in pursuance of this his Title, (which the Estates of France held just,) sailed into England, took possession of the Kingdome, received homage of all the Barons, and Citizens of London, who joyfully received him, taking an Oath upon the Evangelists, to restore them their good Lawes, together with their lost Inheritances.*

(g) The generall Hist. of France, p. 657. to 690.

(g) *Henry* the 2. of *France* being casually slaine by the Earle of *Montgommery* in running at the Tilt, left the Crowne to *Francis* the 2. being but about 16. yeares of age, the *Queen Mother*, with his wives Vncles the Duke of *Guise*, and the Cardinall of *Loraigne*, hereupon usurped the Government of his person and Realme, dispossessed the chiefe Officers of the Crowne, kept backe the Princes of the Blood from Court, the true and lawfull Governours of the State during the Kings minority, and plotted the meanes to raise their race to the Royall Throne, by displacing all great Officers, substituting others of their owne faction, and endeavouring to extirpate the Protestant party, whom they feared as most opposite to their treacherous designes; They doe and undoe, place and displace in Parliament and Privie Councell, like absolute Kings; they revoke all alienations for life or yeares made by the deceased King in recompence of any services, except sales; they caused divers Protestants to be put to death, imprisoned, pillaged: Wherewith the princes, Officers and people being generally discontented, to redresse the present and prevent all future disasters that might ensue, *require a generall Parliament (as the Soveraigne cure for such diseases, whereby the Queen Mother might be put from her usurped Regency, and those of Guise excluded from the Kings person)* who to please the king, perswade him, *that their opposites sought only to bridle and make him a Ward, and that he should hold them enemies to his Authority and* GUILTY OF HIGH TREASON. THAT TALK OF A PARLIAMENT. *The King of Spaine to crosse them, by Letters to the King his Brother-in-law,* declares himselfe (for the good affection he bare to him) *Tutor and Protector of him, his Realme and affaires, against those that would change the Government of the Estate, as if the King were not capable of the Government.* Pleasant people, which reject so much the word of *lawfull tutelage*, and yet usurped it against the Lawes and Orders of the Realme, holding it onely by tyranny. After this they cast many slanders on the Protestants, put *Anne du Burge* and other Councellours of Parliament to death, pistoll *Anthony Minard* president of the Parliament, publish sundry Edicts against those of the reformed Religion, promise great recompences to those that discover their assemblies, fill their prisons with them, imploy ayre, fire and water to ruine them, and kept the king from hearing his Subjects complaints. The princes were kept backe, the greatest of the Realme out of credit, threatned, and secretly pursued to death, the convocation of the Estates refused, the parliaments corrupted, the Judges

for

for the moſt part at the *Guiſians* devotion; and the publike treaſure, offices and benefices given to whom they pleaſed. This their violent government againſt the lawes, and orders of the Realme, purchaſed them wonderfull hatred, and cauſed many which could no longer endure theſe oppreſſions, to conſult *VPON SOME IVST DEFENCE, to the end they might preſerve the juſt and ancient Government of the Realme.* They demand advice, *TOVCHING LAW AND CONSCIENCE OF MANY LEARNED LAWYERS AND DIVINES*: who reſolved, *THAT THEY MIGHT LAWFVLLY OPPOSE THEMSELVES againſt the government which the houſe of Guiſe had uſurped, AND AT NEED TAKE ARMES TO REPVLSE THEIR VIOLECE*; ſo as the Princes, who in that caſe are born Magiſtrates, or ſome one of them, would undertake it, being required by the Eſtates of the Realme, or by the ſounder part of them. They who firſt thought of this Act of conſequence, had ſeverall conſiderations: *Some, moved with a true zeale to ſerve God, the King and Realme, thought they could not doe a greater worke of pietie, then to aboliſh Tyrannie, reſcue the State, and to finde ſome meanes to eaſe them of the Religion.* There were others deſirous of change, and ſome were thruſt on with hatred, for the wrongs which the houſe of *Guiſe* had done them, their kinſmen and friends: yet all had one deſigne to ſuppreſſe this unlawfull government. In theſe conſultations it was held neceſſary to ſeize on the *Duke of Guiſe*, and the *Cardinall* his brother, being advowed by one chiefe member of the State, and then to *require an aſſembly of the Three Eſtates, to the end they might yeeld an account of their Government, & provide for the King and Realm.* After which they make the *Prince of Conde* acquainted with this their deſigne, & engage him in this quarrel; which being diſcovered, produced a long bloody civill war againſt the Proteſtants, under this and the two ſucceeding Kings; in which warre, *thoſe that died, departed this world with this ſingular content, to have couragiouſly ſacrificed their lives for their countries libertie:* So the *generall Hiſtory of France*; in which and in *Richard Dinothus* you may read at large, both the Hiſtory and the lawfulneſſe of this defenſive warre, overtedious to tranſcribe.

Note.

Francis (*c*) dying, the Crowne deſcended to *Charles* the ninth, being but eleven yeares of age, and a Parliament of the Eſtates being aſſembled on the three and twentieth day of December, 1560. the Queene *Mother* was thereby allowed and confirmed Regent during the Kings minority: In ſeverall Parliaments contradictory Acts are made, ſome reſtraining, others granting the free exerciſe of the Reformed Religion thorowout the Realme. The *Guiſian* Popiſh faction, being the ſtrongeſt party, moſt powerfull at Court, and intimateſt with the King, notwithſtanding all Acts for the Proteſtants immunitie and libertie of conſcience, impoſe divers illegall reſtraints upon them, commit many outrages and maſſacres on them, for which they could have no redreſſe; whereupon for their own defence and preſervation, after many fruitleſſe Petitions, & deluſory promiſes, they take up Arms; whereupon many bloody civill warres enſue. Many propoſitions and overtures of Peace were made by the *Guiſian royall party*, not one of them reall, but all to get advantages, and over-reach the Proteſtants, againſt whom they had the moſt miſchievous deſignes in agitation, when they ſeemed moſt earneſtly to deſire Peace. Four or five ſeverall concluſions of Peace were ſolemnly made and ratified betweene them, but no ſooner made and proclaimed, but

Generall Hiſt. of France, 692, &c. & Richardus Dinothus de Bello Civili Gallico Religionis cauſa ſuſcepto, l. 2, 3, 4, 6. Speeds Hiſt. 1211, 1212, 1213. K. James Anſwer to Cardinall Peron.

presently violated of the King and Popish party, by massacres, and new treacherous Plots to extirpate the Protestant party; so that every accommodation proved but a seminary of a new and more bloody warre, almost to the utter ruine of *France*. In the yeare 1592. when a publicke peace was made, and all differences to outward appearance, buried in eternall oblivion; the King, contrary to his faith and oath, caused the *Admirall* of *France*, (the Protestants chiefe pillar) as he departed from the Councell to dinner, to be shot with a Harguebuze, which carried away the forefinger of his right hand, and wounded him in the left arme. The king to colour this treachery, *sweares with an execration* to the *King of Navarre*, and others who complained of this outrage, *to take such exemplary punishment on the offendors, as the Admirall and his friends should have cause to rest satisfied, commands them to be pursued, appoints three of the Parliament to make information against them, protests after this again and again, to be exceeding sorry; that this act touched his honour, that he will be revenged for it, so as the memory thereof should remaine for ever; writes to the governours of the Provinces, chiefe Townes, and Magistrates, That he would take such order as the Authors of so wicked an act should be knowne and punished: And to his Ambassadours to forraigne Princes, That they should make it knowne to all the world, that this outrage did displease him. And for the Admirals safetie, he commands the Captaines of his Guards, to give him as many of his Guard as he pleased, to suffer no Papist to enter his lodging; and adviseth all the Gentlemen Protestants then in* Paris *to lodge about the Admirals lodging.* But all this Court Holy-water was onely to keep every Bird within his owne nest, and a Pitfall to entrap the chiefe of the Protestants: For *the same day after dinner, the King and Queene Mother, the Duke of Guise, and others, take counsell to murther the Admirall, and all the chiefe Protestants, the night ensuing, not onely in* Paris, *but thorowout all* France, *whiles they were sleeping in their beds.* Which most tyrannicall barbarous Tragedie was accordingly acted, the Admirall slain in his lodging, and his head cut off, carryed to the King and Queen Mother, who causing it to be embalmed, sent it to the *Pope* and *Cardinall* of *Lorrain*, for an assurance of the death of their most capitall enemy: all the *Protestants*, Noblemen and Gentlemen, lodging in the Admiralls Quarter, undergoe the like Butchery; the Streets of *Paris* are strewed with Carkases, the pavements, market places and river dyed with *Protestant* blood, about ten thousand of them being thus treacherously massacred in their beds, at such a season when they thought themselves most safe, and that on the Lords owne sacred day, a very unsutable time for such a bloody, prophane, infernall sacrifice. No sooner was this matchlesse treachery of this king against his owne naturall subjects executed, but *he avowes and justifies that which he but the day before so solemnly and openly disclaimed*, as a meanes to cut off all commotions for time to come. But this blood-shed begat new warres, and made the Protestants in *Languedoc*, *Rochell*, and other parts, to take up Armes in their owne defence, and stand more strictly on their guard than ever before: And (*i*) *God himselfe out of his Divine justice, after this horrible Butchery committed by this dissembling, cruell, blasphemous King, smote him with an answerable disease, causing him to wallow in his owne blood, which he pitifully vomited out in great abundance, by all the conduits of his body, for divers houres, till he dyed: (A just judgement for him that barbarously shed blood thorowout all the Provinces of the Realme) he in the mean time tossing in his bed, and casting out many horrible blasphemies. A notable spec-*

(*i*) *Gen. hist. of France. p. 744. Fox Acts and Mon. Vol. 3. p. 2026. Edit. vlt.*

cle

cle for all unnaturall fidifragous Princes to looke on, who imbrue their hands in the blood of their Christian subjects. VVhich crime (as the Authour of the (*k*) *French History* observes) *made his reigne cursed in the City, and cursed in the field; cursed in the beginning, and cursed in the ending; mortalitie, sword, famine, cursing, feare, and desolation, following it even unto the end.* I shall conclude his reigne with the words *of the French History; Doubtlesse God loves not the Prince that thirsts after his subjects blood, for the subjects blood is the very blood of their Prince.*

(*k*) *Gen. Hist. of France, f. 764.*

(*l*) *Charles* dying without Heire of his body, the Crowne descended to his Brother *Henry* the third, then king of *Poland*, *Anno* 1574. his first designe was to extirpate the *Hugonots* and Protestant Religion thorowout the Realme, though the Emperour *Maximilian* told him, *There is no sinne so great as to force mens consciences, and such as think to command them, supposing to win heaven, doe often lose that which they possesse on earth.* His pernicious Cabinet Councellors, to effect this designe, cause him first to protest by sundry Proclamations, *his love to the good of his subjects, and to abolish what was past, so as they lay aside armes, deliver him all his Townes, and live quietly in their houses, without any search, constraint, or molestation for matter of conscience.* A policie practised onely to bring the Protestant party into slavery, all those Proclamations making no mention of liberty of their Religion, neither of a Parliament for the publike Government, nor of a nationall Councell for matters of Conscience: herenpon the Protestants stood the more upon their guards they are full of jealousie, distrust, doubt, feare, the King and his Popish Councell indeavouring by this wile to keepe the Protestant party at a gaze, whiles they in the meane time made great preparations underhand to put a mighty army into the field, to ruine them without hope of rising: So they arme on all sides, especially in *Poictou*; the Protestants are besieged, assaulted in many places, and so manfully repulse their assailants, that they are willing to hearken to a Treaty of peace; wherein the Protestants demanding *free exercise of their Religion thorowout all* France, *new Chambers in the Parliament for the execution of justice, punishment of the murtherers of them, ease of imposts, a free assembly of the generall Estates, and an assurance for the entertainment of the pretended peace.* The King after fifteene dayes conference, *promiseth to content them all, but he will have them to referre these demands to his will;* and so the Treaty vanished into smoake, and new warres sprung up in every place with new Court-designes to undermine and circumvent the Protestants, who are aided by a *German* Army, *Anno* 1576. The Queen Mother seeing the Protestant party prosper in their warres, makes a peace betweene the King and them; who *grants the Protestants all their former demands, restores divers of them to their goods, offices, honours: avows by a solemne Declaration the Massacres of them*, Anno 1572. *to have beene committed against all right and Law of Armes; He ordained that the children of such Gentlemen as had beene murthered, should be restored to their parents goods, and freed from all charges of warre, yea, he avowed their taking up of Armes, as taken for his service, &c.* Which Articles, with the Kings *Edict* thereon, were allowed by the Parliament at *Paris*. But no sooner were their Forces disbanded, but *they began to finde this peace to be counterfeit, being onely made to disarme them, and divide their Commanders:* none of the premisses being really performed. In the meane time the house of *Guise* and their faction send their Agents to *Rome*, and *Spaine*, to joyne with them in a *Catholike league*, and under pretence of extirpating Heresie,

(*l*) *Generall Hist of France, p. 765, &c.*

and eſtabliſhing the Roman religion thorowout *France*, endeavour to ſettle the Crowne upon themſelves: their chiefe deſignes were, *to overthrow the ſucceſſion of the Crowne brought in by* Hugh Capet, *in the full aſſembly of the Eſtates, and to make the naming of a Succeſſor ſubject unto the ſaid Eſtates, to cauſe the Princes of the blood that ſhould oppoſe againſt the Decrees of the Eſtates to be declared uncapable of ſucceeding unto the Crown; to make the Eſtates proteſt to live and die in the faith ſet downe by the Councell of Trent; to cauſe it to be ſigned in the open Parliament; to revoke and annull all publike Edicts in favour of the Proteſtants and their aſſociates, and to purſue them to the death, that ſhould hinder the extirpation of Hereſies, &c.* Theſe Articles of Aſſociation were firſt drawne at *Peronne* in *Picardy*, but diſguiſed with goodly ſhewes, to blinde thoſe that would examine them more exactly, as being *onely to maintaine the Law, and reſtore the holy ſervice of God; to preſerve the King and his Succeſſors in the eſtate, dignitie, ſervice and obedience due unto them by their ſubjects; to reſerve unto the Eſtates of the Realme, their rights, preheminences and ancient liberties.* And for the execution of theſe Articles, a certaine *forme of Oath* was propounded, *inflicting pains of eternall damnation to the aſſociates, that for any pretext whatſoever ſhould withdraw themſelves from this league; and a Bond for ſuch as ſhould be enrolled, or imploy their goods, perſons, and lives, to puniſh, and by all meanes to ruine the enemies and perturbers thereof, and them that ſhould faile, or make any delayes, by authoritie of the Head, as he ſhould thinke fit.* Soone after a Parliament of the three Eſtates is aſſembled at *Bloyes*, where the *Catholike Leaguers*, after much conſultation, cauſed the laſt *Edict of pacification*, in behalfe of the *Proteſtants* to be revoked, and procured an *Edict for the exerciſe onely of one Religion (to wit the Popiſh) to be tolerated within the Realme.* The King of *Navarre*, the *Prince of Conde*, the *Marſhall of Montmorancy*, with divers other Noblemen of both religions, foreſeeing theſe practices, and refuſing to aſſiſt at this pretended Parliament, *concluded a nullitie of all that ſhould be decreed to prejudice the former Edict of Pacification; proteſting, that they were reſolved to maintaine themſelves in the Rights, Liberties, and freedomes which the Edict had granted them. That the troublers of the publike quiet, and ſworne enemies of* France *ſhould finde them in a juſt defence, and they ſhould anſwer before God and men for all the miſeries that ſhould enſue thereby:* Yea the *Prince of Conde* anſwered more ſharply, *That he did not acknowledge them aſſembled at Bloys for the Eſtates of the Realme, but a Conventicle of perſons corrupted by the ſworne enemies of the Crowne, who have ſolicited the abolition of the Edict, to the ruine and ſubverſion of the Realme: That if they had beene lawfully called, he would have aſſiſted, for the ſincere affection he beares to the Kings ſervice and the quiet of his Country; that he will never give his conſent to the counſels of the Authors of ſo many confuſions which he foreſees, &c.* Hereupon a ſixt civill Warre begins betweene theſe Catholike Leaguers, and the Proteſtants, whoſe good ſucceſſe cauſed the King, *An.* 1580. to make a new peace with the Proteſtants, and grant them their former immunities. The Leaguers diſcontented herewith, begin to caſt forth Libels againſt the King, diſgrace him in companies as a *Sardanapalus*, and idle *Chilpericke*, *fit to be ſhaved and thruſt into a Cloyſter*; They cauſe the Preachers publikely in all places, to terme him *a Tyrant, an Oppreſſor of his people by Taxes, and a favourer of Heretikes:* And under a *pretence of ſuppreſſing Heretikes, reforming publike oppreſſions; and ſettling the ſucceſſion of the Crowne in caſe the King ſhould die without Heire*, they, contrary to the Kings command,

mand, (who *disavows them, and forbids all leavyes of warre*) raise a great Army, and so enforce the king to publish a Declaration in his owne justification, and to procure his peace with them, to revoke all *Edicts* made in favour of the Protestants, and make open warre against them. Hereupon the King of *Navarre* (next Heire apparent to the Crowne) for preservation of his owne interest and the Protestants, complains against the kings proceedings, layes open the mischievous Plots of the Leaguers: and then with the *Prince of Conde* and other Nobles, Gentlemen, Provinces, Townes, and Commonalties of both Religions, *He protests, by a lawfull and necessary defence to maintaine the fundamentall lawes of families, and the Estates and libertie of the King, and Queene his Mother.* The Leaguers hereupon procure *Pope Sextus the fift, to excommunicate the king of* Navar, *and Prince of* Conde, *to degrade them and their Successors from all dignities, from their pretentions to the Crowne of* France, *and to expose their Countries and persons in prey to the first that should seize on them.* The Court of Parliament *declares this Bull of the Pope to be void, rash, insolent, strange, farre from the modestie of former Popes, pernicious to all Christendome, and derogating from the Crowne of* France: The Princes likewise *protest against, and appeale from it, as abusive and scandalous, to the next free and lawfull Councell.* The Leaguers pursue their begun warres against the *King of Navarre* and Protestant party; *who protest to use all lawfull meanes to resist the violence of their enemies, and cast all the miseries that shall ensue upon the Authors thereof.* Fresh warres are hereby prosecuted against the Protestants by the Leaguers, *German* Forces come in to ayde the Protestants; after macombates the King desires peace, but the Leaguers will have none; and assembling at *Nancy*, they *endeavour to force the King to make his Will, and allow the Regency unto them*; to which end they conclude, *That the King should be urged to joyne his Forces effectually with the League, To displace such from their Offices as should be named, To bring in the in the Inquisition of* Spaine, *and publish the Councell of Trent, but with a moderation of such things as derogate from the priviledges of the French Church; To consent to the restauration of the goods sold by the Clergy for the charges of the warre, To give them Townes to be named and fortified as the time and necessitie required, To forfeit the Huguenots bodies and goods, and to entertaine an Army upon the frontiers of* Lorraine *against the Germanes.* After which the Duke of *Guise* approaching to *Paris*, enters it against the Kings command, who was jealous of him; mutinies the Citizens against the King, who thereby is forced to retire from thence for feare of being surprized by the Duke, who plotted to seize his Person. After which the Duke by the *Queene Mothers* mediation, is reconciled to the King; who for feare of his power, by an Edict of re-union, *admits no religion but the Popish, promiseth never to make Peace nor Truce with the Heretikes, nor any Edict in their favour; bindes his subjects to sweare, never to yeeld obedience after him, to any Prince that shall be an Heretike, or a favourer of Heresie; degrades from all publike charges, either in peace or warre, those of the Reformed Religion; promiseth all favour to the Catholikes, declares them guilty of High Treason who shall refuse to signe to this new union, and shall afterwards depart from it.* But signing this forced Edict, *he wept.* To establish which Edict, and work their further ends, the Leaguers cause the King to summon a Parliament of the 3. Estates at *Bloyes*, procuring those of their faction to be chosen of this Assembly: where establishing the former extorted Edict, they *thereby exclude the King* of Navarre, (an Heretike as they deemed him) *from the Crowne of* France, *to which he*

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was next Heire: An Heretike cannot reigne in France, *it is an incompatible thing with the Coronation and Oath which he ought to take; hurtfull to the honour of God, and prejudiciall to the good of the Realme:* Then *they declare the King an enemy to, and oppressor of his people, a Tyrant over his Realme, that so the people should presently resolve to confine him unto a Monastery, and install the Duke in his throne.* And at last, the King being certainly informed of the Dukes traiterous designes to surpize him, and usurpe his Throne, caused the *Duke* and *Cardinall* of *Burbon* (the chiefe Heads of the League) to be suddenly slaine, and others of them to be imprisoned. Hereupon the *Parisiens* mutinie, and take up Armes afresh; *The Colledge of Sorbone* concluded by a publike Act of the seventh of *Iunuary*, 1589. *That the people of* France *are freed from the Oath of obedience and fealty which they owed to* Henry *of* Valoys, *and that lawfully and with a good conscience they may arme against him, receive his Revenues, and imploy it to make warre against him.* After which the Assembly of the Estates dissolving, the *Parisiens imprison the Court of Parliament at* Paris, *till they condescended to their pleasures, and confirmed a generall Councell of the union, consisting of fourty choice men of the three Estates, to dispose of the publike affaires, and conferre with the Provinces and Townes of the League.* To which many Assistants were afterward added by the Nobles, and a Declaration (in manner of an oath) for the entertainment of the Vnion, made, sworne, and subscribed to by many; one of which prickt his own Arme, to signe it with his owne blood, and became lame thereby. The people condemne, imprison, spoile, ransom of their absolute power, and sell the goods of any that bears not the mark of their inraged faction. Hereupon the King turning his lenitie into fury, *Proclaims them Rebels and Traitors, if they come not in and submit by a day; and reconciles himselfe to the King of* Navarre: They go on with greater insolency then before, set out a great Army under the *Duke of Mayenne*; crave assistance from the *Pope* and king of *Spaine*; surprize divers townes, robbe Churches, ravish Wives and Virgins, murther men of all sorts even before their Altars, commit all the outrages, wickednesses which irreligion and impiety could invent in madd Souldiers. The King at last besieged *Paris*, takes some of the Outworks, and was like to master the Citie; but in the middest of this attempt he was stabbed in the belly with a Knife, by *Iames Clement*, a *Iacobin* Friar of two and twenty yeers old, (sent out of *Paris* to act this Tragedie on the kings person) *who vowed to kill the Tyrant, and to deliver the City besieged by* Sennacherib. The murtherer was presently slaine by those who came in to assist the king, who within few houres after died of this wound, which he received in the self-same chamber wherein the Counsell for the Massacre of the Protestants was held on that fatall day of Saint *Bartholmew*, 1572. A notable circumstance of Divine justice upon this Prince, who being ever a zealous promoter of the Romish Religion, was murthered by a Zealot of it, and had his owne blood shed by those who spurred him on to shed the blood of Protestants, in the very Chamber where the most barbarous Massacre of *Protestants* that ever the world beheld, was contrived. (*m*) *Henry* when the pangs of death seized on him, declared *Henry* the fourth, King of *Navarre* (his brother in law) the lawfull Successor of the Crowne of *France*, as in Truth he was, notwithstanding the Edict of *Bloys* to exclude all Heretikes from the Crowne. The *Parisiens* and *holy Vnion* refuse to accept him for their Soveraigne, proclaiming *Charles* the tenth for their King, and triumphing exceedingly at *Henry* his death. The Parliament at *Bourdeaux commands all men*

(*m*) *Gen Hist. of France, p.834, 835.*

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under their jurisdiction, by a Decree of the nineteenth of *August*, 1549. *To observe inviolably the Edict of Union in the Catholique, Apostolike and Romish Church*; and Declarations are hereupon made. The Parliament of *Tholousa* is more violent; they decree, *That yearly the first day of* August *they should make processions and publike prayers for the benefits they had received that day, in the miraculous and fearfull death of* Henry *the third, whereby* Paris *was delivered, and other Townes of the Realme; forbidding all persons to acknowledge* Henry *of* Burbon, *the pretended King of* Navarre, *for King; declaring him uncapable ever to succeed to the Crowne of* France, *by reason of the notorious and manifest crimes contained at large in the Bull of Excommunication of Pope* Sixtus *the fifth.* The Court of Parliement at *Roan*, no lesse violent and presumptuous then that of *Tholousa*, *pronounced them guilty of High Treason, both against God and man, and the Estate and Crowne of* France, *that had opposed themselves against the holy Union, and all Royalists and their Successors deprived of all prerogatives of Nobility; their Offices to be void, not to be recovered, and all their Goods forfeited: Anno* 1592. they renew this Edict every eight moneth. Thus the league kindled afresh the fire which the siege of *Paris* had somewhat quenched: the King raising his siege before it, and returning to *Arques*, the Leaguers Army followed him, and are there defeated: after which the King with a small Army gaines many great Conquests, which amaze the Leaguers; he besiegeth *Paris* above three moneths, where more then one hundred thousand people died of famine, yet they force the Parliament to publish a Decree the fifteenth of *June*, 1590. *Forbidding upon pain of death all men to speak of any composition with* Henry *of* Burbon, *but to oppose themselves by all meanes, yea, with the effusion of their blood.* But the Belly hath not Ears, the people are not fed with paper, or promises, they mutinie and demand peace; whereupon Deputies are sent to the King to treat a peace; who to defeat the *Spanish* Army called in by the Leaguers, raiseth his siege, and routs the *Spanyard*, with other Forces of the League in sundry places, which makes many desire peace; yet by meanes of Pope *Clement* the eighth his Bull, the *Duke of Mayenne*, and the *Popes Legate, they intend to summon a Convocation of the Estates of* Paris *to elect a new King, desiring the Cardinall of* Placentia *to assist and confirme this their intended future election.* The Parliament of *Paris* removed to *Chaalons gives sentence against the Popes Bull, and nulls it*: The King sets out a Declaration against the Leaguers *as Traitors and Rebels*, declares this Assembly of the Estates without his Authoritie, *to be against the Lawes, against the good and quiet of the Realme, and all that should be treated or concluded therein, abusive, and of no force.* On the contrary, the Popes Legate, by a publike exhortation full of injuries, labors to perswade the French, *that the King, long since dismembred from the bodie of the Church, was most justly pronounced uncapable of the Crown.* The *Spanyards* labouring the Estates to elect the *Infanta* of *Spain* king; the Parliament of *Paris* by a Decree of the eight and twentieth day of *July*, *declare all Treaties made or to be made to that end, void, and of no validitie, as being made to the prejudice of the* Salique *Law, and the fundamentall lawes of State.* The king to quiet these differences, and gain peaceable possession of the Crown, most unworthily deserts his Religion, reconciles himselfe to the Church and *Pope* of *Rome*; yet one *Peter Barriere*, seduced and perswaded by a *Capuchin* of *Lyons*, *Aubry* a priest of *Paris*, and father *Varide* a Iesuite, was apprehended at *Melun*, and executed, *for attempting to murther the King with a sharpe two-edged Knife*, which fact he confessed. After

this the Townes subject to the League, returne by degrees to the obedience of the Crown; the king is solemnly Crowned at *Chartres*, *Rhemes* shutting the gates against him. This done, he surprizes *Paris*, and notwithstanding their former rebellions, grants them all free pardon upon their submissions. The Parliament at *Paris* disanuls all the Decrees of the League, and pretended assembly of Estates, *as void, and done by private persons, without due election*; grants Processe against the Iesuites, *as chiefe pillars of the League, disgracing the new Kings Majesty, and the memory of the deceased King in their Sermons*; and perswading the execrable attempt of *Peter Barriere* to stabbe him: the Cardinall of *Burbon*, the *Duke of Nevers* with others, protect and sue for them; who soone after suborne *John Chastle*, one of their Novices, (of the age of eighteen years) to stabbe the king; who creeping into the kings chamber at the *Louure* in *Paris*, among the presse, *December* 27. 1594. and thinking to stabbe the king in the belly, as he resolved, struck him on the upper Lip, and brake a Tooth, as he stooped to take up some Gentleman who saluted him; for which fact he was condemned by the Parliament as guilty of High Treason, his body adjudged to be torne in peeces by four horses, then burnt to ashes and cast into the winde, and all his Goods confiscate to the king: All the Iesuites, with their schollers, were hereupon *banished the Realme, as corrupters of youth, troublers of the publike quiet, enemies of the Kings State, and none of them to remaine above fifteen dayes, nor any to harbour them within the Realme under paine of High Treason.* I have heard from a Gentleman of credite, which served this king, that when he was thus stabbed in the mouth by *Chastle*, one of the * Religion gave him this Christian admonition, *Sir, you have denied God already with your mouth, in renouncing the protestant faith, which you once professed; now God in his justice hath permitted this Iesuite, of that Religion you revolted to, thus to stabbe you in the mouth: O take heed you deny him not in your heart, lest the next stroke they give you be to the heart.* Which fell out accordingly, for (*n*) after four or five more severall attemps of the Iesuites and *Papists* to murther him, which were discovered and prevented, he was stabbed to death with a Knife by one *Francis Ravillac*, (a *Papist* at the Iesuites instigation) as he was riding in his Caroch neare to *Innocents* church in *Paris*, for *suffering two religions in the Kingdome*, as the Traitor professed. This Villaine stabbed him first in the left *Pap*, and next between the fift and sixt Ribbe, cutting asunder the veine leading to the heart, and entring into the *Cava vena*; and being dead the Iesuites of his royall Colledge at *la Fletche* (whom he (*o*) *restored and favoured exceedingly, notwithstanding their former Treasons, and banishments of them out of* France, *causing the Pyramis erected by sentence of Parliament as a monument of their Treasons to be rased, and yet were found to have a chiefe hand in this his death*) begged and procured his heart to be there interred: O the admirable passages of Divine Iustice, that those two *Henries*, who most advanced *the Popish Religion*, and abandoned the Protestant faith to humour the Iesuites and *Papists*, thereby to secure their Crownes and lives, as they beleeved, should thus fatally perish by those of that Religion, and their unlawfull revolts thus used to preserve their lives; whereas our noble Queen *Elizabeth* continuing constant in her Religion, notwithstanding all allurements menaces and attempts upon her person, to withdraw her from the truth, was miraculously preserved from all the bloody assaults of this infernall generation of Romish Vipers, and went to her grave in peace.

* *Mounsieur Daubern.*

(*n*) The generall Hist. of France, p. 976, 977, 982.

(*o*) Gen. Hist. of France, p. 914 915, 1070, 1071 1072, 1094, 1095, 1110, 1131, 1172, 1173, 1174, 1175, 1181, 1182, 1183, 1196, to 1220.

(*p*) Gen. Hist. of France, p. 887, 888.

But to return to this kings actions; (*p*) *Anno* 1596. king *Henry* calls a generall assembly

assembly at *Roan* in forme of a Parliament, where he speaking to the assembly, told them, *That at his coming to the Crowne he had found* France *not onely ruined, but almost all lost for the* French, *but by the grace of Almighty God, the prayers and good counsell of his subjects, the sword of his Princes, and brave generous Nobilitie, and his owne pains and labour, he had saved it from losse; let us save it now from ruine, participate with me, my dear subjects in this second glory, as you have done in the first; I have not called you as my Predecessors did, to make you approve my Will, I have caused you to assemble,* TO HAVE YOVR COVNSELS, TO BELEEVE THEM, AND TO FOLLOW THEM; finally, TO PVT MY SELFE INTO YOVR HANDS: *A desire which seldome commands Kings that have white hairs and are Conquerours; But the love I beare unto my subjects, and the desire I have to adde these two goodly Titles to that of king, makes me to finde all easie and honourable.* After this the *King* and *Parliament* set forth divers (q) Edicts against the *transportation of Gold and Silver, the wearing of Gold & Silver, excessive usurie, Advocates extortions, Duels, Bankrupts, and the like.* This (r) Martiall King being murthered by *Ravillac*, as aforesaid, the Crowne descended to *Lewes* his Sonne, not then ten years old: The Court of Parliament at *Paris* having notice of his death, made this Decree in Parliament, *May 14. Anno 1610. Whereas the Kings Attorney Generall hath informed the Court of Parliament, and all the Chambers thereof assembled, that the King being now murthered by a most cruell, inhumane and detestable Parricide, committed upon his most sacred Person, it were very necessary to provide for the affairs of the present King, and for his Estate, and hath required that there be present order given concerning the service and good of his Estate, which cannot be well governed by the Queen, during the minoritie of the King her sonne; and that it would please the said Court to declare her Regent, that the affairs of the Kingdome may be governed by her: Whereupon having consulted,* THE COVRT HATH DECLARED AND DOTH DECLARE THE QVEEN (mother to the King) *REGENT OF FRANCE, for the governing of the State, during the minoritie of her sonne, with all power and authoritie.* The next day the King himself sitting in the Seat of Iustice in Parliament, by the advice of the Princes of his blood, Prelates, Dukes, Peers and Officers of the Crown, according to the Decree made by the Court of Parliament, declared and *did declare the Queen his Mother Regent in* France, *and to have the care of bringing up his Person, and the Government of the affairs of his Kingdome during his minoritie*; commanding the Edict to be enrolled and published in all the Bayliweeks, Seneschalships, and other jurisdictions depending upon the said Court of Parliament, and in all other Parliaments of the Realme; so that the Queene Mother was setled in the Regency by the Parliament and whole State of *France*. After which (s) *Pasquier*, Counsellor and Master of Requests, writ her a large Letter touching the Government of the State, wherein he informed her, *That she must not forbear to assemble the Estates, for the reason that some would suggest unto her, that they will be some blemish to her greatnesse; it is quite contrary: The Estates having confirmed it by publike authoritie, will settle it fully. Commonly the Estates assemble to provide for the present and future complaints of the generall of this Monarchy, and to reduce things to their ancient course; the people being the foundation whereon this Realm is built, and the which being ruined, it is impossible it should subsist: take away these new Edicts, Impositions and Subsidies: it is better to gratifie a people, than to intreat them roughly.*

(q) *Gen. Hist. of France, p. 1069, 1022, 1023, 1124, 1154, 1156, 1157.*

(r) *Gen. Hist. of Fr. p. 1173, 1174, 1200.*

(s) *Gen. Hist. France, fo. 1207.*

roughly. *Above all things beware that you follow not your own opinion alone, in managing the affaires of the Realme.* Hereupon four and fifty Edicts and Commissions were revoked, wherewith the Subjects had been oppressed. (t) When the King was to be Crowned, the Prelates made this request to him at the Altar before his Coronation; *We pray and require that you would grant unto every one of us, and the Churches whereof we have the charge, the Canonicall priviledges, good lawes, and justice; and that you will defend us, as a king ought all his Bishops and their Churches.* Whereunto the king answered; *I promise to preserve you in your Canonicall priviledges, as also your Churches; and that I WILL GIVE YOV* (in the future) *GOOD LAWS, and do you Justice, and will defend you, by the help of God, according to my power; as a king in his Realm OVGHT TO DO IN RIGHT AND REASON, to his Bishops and their Churches.* After which having been acknowledged their lawfull Prince, *BY A GENERALL CONSENT OF ALL THE ORDERS*, the Cardinall of *Joyeuse* presented unto him the Oath of the Kingdome, (the sacred Bond of the fundamentall Lawes of the State) the which he took publikely in these words, with invocation of the Name of God, having his hand upon the Gospell, which he kissed with great reverence.

(t) The continuation of the life of Lewes the thirteenth, p. 2. 237.

I promise in the Name of Iesus Christ, these things to the Christians subject unto me; First, I will endeavour that the Christian people shall live peaceably within the Church of God: Moreover, I will provide, that in all vocations, theft, and all iniquitie shall cease: Besides, I will command, that in all judgements equitie and mercy shall take place; to the end that God, who is gentle and mercifull, may have mercy both on you and me. Furthermore, I will seek by all means in good faith to chase out of my Iurisdiction, and the Lands of my subjection, all Hereticks denounced by the Church; promising by Oath to observe all that hath been said: So help me God, and this holy Evangell.

(u) Ibib. p. 9. 26. 29. 30. 31. 46. 49. 50. 74. 75

After this (u) *Bellarmines* Book of the *Popes power in temporall causes*, *Becanus*, and *Scoppius* Books, *Marianaes* Book *de Rege & Regis institutione*, *Suarez* his Book, with others, which taught, *That the Pope was above Kings in temporall things, and that it was lawfull for private subjects by the Popes authoritie to murther kings that were Heretikes, and that the murthers of* Henry *the third and fourth, by* Chastle *and* Ravillac *were lawfull and commendable*; were prohibited and condemned to be burnt by Edicts of Parliament.

(x) Ibid p. 17. 28 23.

(x) *Anno* 1611. the Reformed Churches of *France*, at their generall Assembly at *Samure* by the Kings permission, made a generall Vnion, *which they did sweare to keep inviolably, for the good, quiet, and advancement of the said Churches, the service of the King, and Queen Regent, and preservation of the Estate*; and appointed six Deputies therein, for the dispatch of all their affaires, (y) *Anno* 1614. the *Prince of Conde* with divers other *Princes, Dukes, Peers, Noblemen, and Officers of the Crowne* retinued from the Court in discontent, and meeting at *Mezieres*, writ severall Letters to the Queen, Parliament, and others, complaining therein of divers grievances and disorders in the government, *which they desired might be redressed, by summoning a generall Assembly of the three Estates to be free and safe, to be held within three monthes at the furthest*, protesting, *that they desired nothing but peace and the good of*

(y) Ibid p. 89. 90 120.

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the Realme, that they would not attempt any thing to the contrary, unlesse by the just resolution of their enemies, (who covered themselves with the Cloke of State under the Queene Regents authority) they should be provoked to repell the injuries done unto the King and State BY A NATURALL, JUST AND NECESSARY DEFENCE. After which with much adoe Articles of Peace were concluded on at Saint *Manehold*, between the King, Queen Regent, and these Nobles; wherein it was among other things accorded, *That the generall Estates of the Realme should be assembled at* Sens *by the four and* 20. *day of* August, *in which the Deputies of the three Estates, may with all libertie propound whatsoever they shall think in their consciences to be for the good of the Realme and ease of the subject; that thereby the King with the advice of the Princes & Estates might make some good Lawes and Ordinances to contain every man in his dutie, to fortifie the Lawes and Edicts made for the preservation of the publike tranquillitie, and to reforme the disorders which may give just occasion of complaint and discontent to his good subjects: That the Kings Mariage with* Spaine, *formerly concluded on, should be respited and not proceeded in during his minority: that all Garisons put into any places of the Realme by reason of the present motions, should be discharged that Letters Patents be directed to all Courts of Parliament to be verefied, by which his Majestie shall declare, that the said Princes, Nobles, and others of what quality and condition soever, which have followed and assisted them in these alterations, had no bad intentions against his service, with all clauses necessary for their safeties and discharges, that they may not be called in question hereafter, and that they shall be restored to their Offices, Estates and Dignities, to enjoy them as they had formerly done. And in like manner his Majestie shall write to all Princes, Estates, and Commonwealths allied to the Crowne, and men of qualitie shall be sent expressly to them, to let them understand what he had found concerning the innocency and good intention of the said Princes, Officers, and Nobles.* After which the three Estates were published, Deputies elected; and the King (by his Councel and Parliament of *Paris*) was declared of full age, according to a fundamentall Law made by *Charles* the fift, ratified by the Court of Parliamnt; *That the Kings of* France, *having attained the full age of thirteene yeares, and entring into the fourteenth, they should take upon them the Soveraigne Government of the Estate:* Whereupon the Queen Mother in the Parliament resignes the Regency and reignes of the Empire into his hands. After which the three Estates assembling *abolished the sale of all offices of judicature, and others which tend to the oppression and ruine of the People,* suppresse *Duels*; the Commons and Deputies of the three Estates present a Petition of all their grievances to the King, consisting of severall natures, and pray redresse: And for the securing of the Kings Crowne and person against the Popes usurpations and attempts, they desired, *that it should be declared by the said Estates, and set down as a fundamentall Law, That the King did not hold his Realme of any but God and his sword, and that he is not subject to any superiour power upon earth for his temporall estates, and that no Book should be printed containing any Doctrine against the person of Kings touching the question too much debated by presumptuous men, whether it be lawfull to kill Kings?* The Clergy of *France* except against this Article, as a *point of doctrine and conscience (not of State policie, as the Commons pretended, fit only for the Clergies determination*, not the Commons or three Estates, as a means to *ingender a schisme and offend the Pope*, and after much debate prevail and suppresse it: In fine, after many debates the three Estates brake up without any great re-

dreſſe of their grievances, or full anſwer to their Petitions, which was defaced: hereupon the *Parliament at Paris* the ſeven and twentieth day of *March*, 1615. decreed, under the Kings good pleaſure, *That the Princes, Dukes, Peers, and Officers of the Crowne, having place and deliberate voyce therein, being then in the Citie, ſhould be invited to come into the Court, there (with the Chancellour and all the Chambers aſſembled) to adviſe upon the propoſitions which ſhould be made for the kings ſervice, the eaſe of his ſubjects, and good of his eſtate, and to draw up a Remonſtrance to this effect.* Some Court Paraſites preſently acquaint the King and Queen Mother with this Decree; *as if it were an apparent enterprize againſt the Kings Authoritie, and did touch the Queens Regency which they would controll*; and objections are made againſt it in Councell, whereupon the Parliament are ſent for to the Court ſeverall times, and ordered to revoke this Decree; they excuſe and juſtifie it, then draw up a *Remonſtrance* to the king, conſiſting of many Heads; wherein among others they affirme, *That the Parliament of* Paris *was borne with the State of* France, *and holds place in Councell with Princes and Barons, which in all ages was near to the Kings perſon. That it had alwayes dealt in publike affairs: that ſome Kings which had not liked of the Remonſtrances of the Parliament at* Paris, *did afterwards witneſſe their griefe. That* Popes, *Emperours, Kings, and* Princes *had voluntarily ſubmitted their controverſies to the judgement of the* Parliament *of* Paris, &c. To which I ſhall adde ſome paſſages out of *Andrew Favine*, in his *Theater of Honour*, touching the dignitie, power, and honour of the Parliaments of *France*: "In the Regiſter of the Acts of Parliament, begin-
"ning, 1368. there is one dated the twenty ſeventh of *Iune* 1369. for matter of mur-
"der and aſſaſſinate committed on the perſon of Maſter *Emery Doll*, Councellor of
"the ſaid Parliament; whereby it was approved, *That it was a crime of High Trea-*
"*ſon, to kill a Councellor of* Parliament. And in *Anno* 1475. on the eleventh day of
"*November*, *Mounſeir the Chancellor* came to advertiſe the Court for going to
"hear the confeſſion of the Conſtable of Saint *Paul*, to whom for his rebellions and
"diſobediences king *Lewes* the eleventh directed his Proceſſe. And the ſaid Parlia-
"ment, declared, *That there was not a Lord in the Kingdome ſo great, except the*
"*King and Mounſiour le Daulphine, but ought to come and appear at the ſaid* Parlia-
"*ment in perſon, when it was oraained for him.* And this is witneſſed by a *Lyon aba-*
"*ſing his tail between his Legs*, exalted over the gate and entrance of the great Cham-
"ber, by the Parquet *des Huiſiers* thereof. So that by this illuſtrious and Soveraigne
"Parliament are ordered and determined the principall affairs of the kingdom. And
"in *Anno* 1482. the ſecond day of *Aprill*, king *Lewes* the eleventh, ſent unto the Par-
"liament the Oath which he took at his ſacring, *exhorting the ſaid Parliament to per-*
"*forme good juſtice, according as the King had promiſed to doe by his ſaid Oath, which*
"*he purpoſed to keep*; and the Oath is there Regiſtred downe. The Parliaments of
"*France* are Oaks with exalted Heads, under whoſe Branches the people are covered
"from the very ſtrongeſt violencies, which conſtraineth them to yeeld obedience to
"their Prince: But when Princes (by bad councell) miſprize the authoritie of them
"whereof they ought to be zealous defenders, as being exalted to the Royall dignity,
"to rule and governe their Subjects by juſtice, they cut off the right hand from the left:
"If they refuſe the holy Remonſtrances of their Parliaments under color that they are
Note. "not to meddle with affaires of State, but onely with the Act of juſtice, and lend a
"deaf ear when they are advertiſed of evill Government, it is an aſſured Pronoſtick,

(r) *Lib. 2. c. 12. p. 179. to 187.*

fore-

" forewarning of the entire decadence of the Kingdome. Strange and forraigne Prin-
" ces have sought and submitted themselves to the judgement of their Parliament, even
" in their affairs of greatest importance. The Chronicle of *Laureshime*, under the year
" 803. (followed by the Monk *Aimonius* in the fourth Book of *his History of France*)
" reporteth, that king *Lewes the Debonnaire*, holding his Parliament in *May*, there
" came thither from strange Provinces, two Brethren, kings of *Uvilses*, who with
" *frank and free good will submitted themselves to the judgement of the said Parlia-*
" *ment, to which of them the Kingdom should belong*: Now albeit the custom of the said
" kingdom adjudged the Crown to the eldest, according to the right of Prerogative
" allowed and practised by the Law of Nature, and of late memory in the person of the
" last dead king *Liubus* father commune to these two contendants; yet notwithstan-
" ding in *regard of the subjects universall consent of the Kingdom, who (for the cowar-*
" *dise and want of government in the Elder) had given the Crowne to the Younger, for*
" *valliancie and discreet carriage; by sentence the Kingdom was adjudged to him: and*
" *the Eldest did him homage, with Oath of allegiance, in the said Parliament.*
" Under the third Ligne, in the reign of *Philip Augustus*, Pope *Innocent* the third,
" and the Emperour *Otho* the fourth, being in variance for the forme and tearms of
" the *Oath of fidelity* with the said *Emperour* should make to the Pope; they refer-
" red it to the judgement of king *Philip in his Parliament, furnished with Peers. Otho*
" made some exception concerning the forme and terms of the Oath; And not being
" able to agree of themselves, both parties submitted to the judgement of king *Philip*
" *Augustus* and of his Court of *Parlsament*, furnished with Peeres: So that by order
" given at *Melum* in *July*, 1204. the form of the said Oath was prescribed, and regi-
" stred in the Parliament Register, at request of the said parties, and sent unto *Otho*
" to render it to the said Pope *Innocent*, who sent this assurance and Certificate to the
" said Parliament for Registring it, being performed.

Innocentius Episcopus, *servus servorum Dei, charissimo filio nostro* Philippo Francorum *Regi charissimo, salutem, & Apostolicam benedictionem; absque dubitatione noveritis, quod secundum formam a vobis &* Curiæ *Regni vestri paribus præscriptam, habetur apud nos jusjurandum charissimi Filii nostri* Othonis *Romanorum Regis illustris aurea Bulla munitum, nobis & Ecclesiæ præstitum.*

Ego Otho *Romanorum Rex, & semper* Augustus, *tibi Domino meo* Innocentio *Papæ, & Ecclesiæ Romanæ spondeo, polliceor, & juro, quod omnes possessiones, honores, & jura Romanæ Ecclesiæ, pro posse meo, bona fide protegam, & ipsam ad eas retinendas bona fide juvabo. Quas autem nondum recuperavit adjutor ero ad recuperandum, & recuperatarum, secundum posse meum, ero sine fraude defensor; & quæcunque ad manus meas devenient, sine difficultate restituere procurabo. Ad hanc autem pertinent tota terra quæ est de Radicafano, usque ad Ceperanum, Exarcatus Ravennæ, Pentapolis, Marchiæ, Ducatus Spoletanus, terra Comitissæ Mathildis, Comitatus Bricenorij cum alijs adjacentibus terris expressis in multis privilegijs Imperatorum, à tempore LVDOVICI PII FRANCORVM ET ROMANORVM IMPERATORIS CHRISTIANISSIMI. Has omnes pro posse meo restituam, & quietè dimittam, cum omne jurisdictione, districtu, & honore suo. Veruntamen cum ad recipiendam Coronam Imperij, vel pro necessitatibus Ecclesiæ Romanæ ab Apostolica sede vocatus accessero, demandato Summi Pontificis ab illis ter-*

ris

ris præstationes accipiam. Præterea adjutor ero ad retinendum & defendendum Ecclesiæ Romanæ REGNVM SICILIÆ. *Tibi etiam Domino meo* Innocentio *Papæ & Successoribus tuis omnem obedientiam & honorificentiam exhibeo, quam devoti & Catholici Imperatores consueverunt Sedi Apostolicæ exhibere. Stabo etiam ad consilium & arbitrium tuum de bonis consuetudinibus populo Romano servandis & exhibendis, & de negotio Tusciæ & Lombardiæ. Et si propter negotium meum Romanam Ecclesiam oportuerit insurrere guerram, subveniam ei sicut necessitas postulaverit in expensis. Omnia vero prædicta tam juramento, quam scripto firmabo, cum Imperij Coronam adeptus fuero. Actum Aquis-Grani Anno Incarnationis Dominicæ Millesimo Ducentesimo Quinto, mense Marcy, Regni nostri septimo.*

" *William Rishanger* Monk in the Abbey of Saint *Albane* in *England*, continuer of " the History of *Matthew Paris*, observeth under the year 1263. that the king of *Eng-* " *land, Henry* the third, and the Barons of *England*, who made warre upon him, *com-* " *mitted their whole difference and quarrell to be judged by the* Parliament *of* France; " *Ut pax reformaretur inter Regem Angliæ & Barones, ventum est adistud, ut Rex &* " *proceres se submitterent ordinationi* Parliamenti *Regis* Franciæ (in the time of " Saint *Lewis*) *in præmissis provisionibus Oxoniæ. Nec non pro depredationibus &* " *damnis utrobique illatis. Igitur in crastino S. Vincentij, congregato Ambianis popu-* " *lo pene innumerabili, Rex* Franciæ Ludovicus *coram Episcopis & Comitibus, aliisque* " Francorum *proceribus solemniter dixit sententiam pro Rege Angliæ, contra Barones* " *statutis* Oxoniæ *provisionibus, ordinationibus, ac obligationibus penitus annullatis.* " *Hoc excepto, quod antiquæ Chartæ* Joannis *Regis Angliæ universitati concessæ per il-* " *lam sententiam in nullo intendebat penitus derogare.* In this Parliament at *Ami-* " *ens* were present the King of *England, Henry* the third, Queen *Elenor* his wife, *Bo-* " *niface* Archbishop of *Canterbury*, Peter Bishop of *Hereford*, and *John Maunsell*; " and on the Barons of *Englands* side a very great number of choice elected Lords; " who the same year repassed back into *England* after the Parliament, as the same " Monk speaketh. Thus *Favine* in the behalfe of the French Parliaments, concerning whose power and priviledges you may read much more in him and others.

(a) Continuation of the Gen Hist. of France, p. 13, to 150.

But to returne to the former History. (a) The *Queen Mother was much discontented with this Remonstrance of the* Parliament, *pretending that they had an intent to call her Regency in question, which all had commended; that they could not speak of the Government of the affaires of the Realm, without touching her, &c.* Whereupon she commanded the Chancellour to give them this answer in the kings name: *That* France *was a Monarchy wherein the king alone commanded, holding his Realm Soveraignly from God; That he had Lawes and Ordinances by which to governe them, for the which he was not to give an account to any man; That it did not belong unto the* Parliament *to controll his Government; That they neither could nor ought to complain of the Queens Regencie which had been so happy; That the Queen was not to give an account of her Regency, but to God only; That no man could prescribe unto the King what Councellors he should entertain, &c.* with many other such bigge words. After which *there was a Decree made in the Councell of State against the Decree and Remonstrance in* Parliament, *disanulling and revoking them as void, and forbidding the* Parliament *hereafter to meddle with affairs of State.* The Court of Paliament in generall complained much

much of this Decree; the kings learned Councell refuse to carry, or cause it to be read in Parliament, *because it would cause an alteration of the good affections and devotions of the Kings good subjects, and the dis-union of the greatest companies of the Realme, who administer justice, which makes kings to Reigne:* After which this controversie was compremised, and the Decree of the Councell against the Parliament suspended, and not enrolled. Soon after the prince of *Conde*, with divers others, seeing all things disordered at Court, and little or no reformation of their former grievances, desert *Paris*, expresse their grievances in sundry letters and Articles of complaint, wherein they complain of *the want of freedom and redresse of their grievances presented in the last assembly of the three Estates; of the Decree and proceedings against the Iurisdiction, Remonstrance and proceedings of the Parliament of* Paris; *Of suffering some Councellors of State to usurpe all the power of the Kingdom, to pervert the Lawes, and change all things as they list; with sundry other particulars:* In these *they intreat and exhort all men of what condition or quality soever, that call themselves Frenchmen, to assist and ayde them in SO IVST A CAVSE; conjuring all Princes and forraign Estates to do the like, and not to suffer such good and loyall subjects to be suppresst by such a conspiracie.* Vpon this the king and Q. Mother, through advise of these ill Counsellors, raise an Army, declare these Princes and Nobles, *Rebels and Traitors, if they submit not by a day:* whereupon they Arm, raise Forces in their own & the publikes defence, and being at *Noyon*, concluded, *That as their Armes were levyed for the maintenance of the Crown, so they should be maintained by it; to the which end they seized on the kings Rents and Revennes in sundry places.* Mean while the Protestants being assembled in a generall Synod at *Grenoble*, March. *Desdiguires* makes an Oration to them, *to disswade them from opposing the mariage with* Spain; wherin he hath this memorable passage to justifie the lawfulnesse of a necessary defensive war for the preservation of Religion and Liberties: *We have leisure to see the storme came, and to prepare for our own preservation: Finally, having continued constant in our Duties, if they seek to deprive us of our Religion, and to take that from us wherein our libertie and safetie depends, purchased by the blood of our Fathers and our own, and granted unto us by that great King* Henry *the fourth, the restorer of* France; *we shall enter into this comerce full of justice and true zeale, finde againe in our breasts the courage and vertue of our Ancestors: We shall be supported* IN OVR IVST DEFENCE *by all good Frenchmen, assisted by all Princes and Estates which love the true Religion, or the good of this State; and in a word, we shall be favoured of the blessings of God, whereof we have hitherto had good experience in our Armes, and which will be to the glory of his Name, and the spirituall advancement of our Churches.* After which the Duke of *Rh an* and Protestants, *in defence of their Religion and Liberties,* j yn with the Princes and Nobles: At last both sides came to Articles of agreement made at *Luudun, Anno* 1616. whereof these were a parcell, *That the grievances of the generall State should be speedily answered; That Soveraign Courts should be preserved in their authority, and the Remonstrances of the Parliament and Peers considered of; That such as had been put from their Offices, should be restored: That all moneys they had taken out of the kings Revennes, should be discharged; A E icts of pacification granted to them of the Reformed Religion, observed; The prince of* Conde *and all those of either Religion, who had assisted him in this war, held for the Kings good and loyall subjects; all illegall Imposts removed; and all prisoners taken on either side, set at liberty. Anno* 1617. the King and Queene Mother

seizing upon the Prince of *Conde* his person, and sending him to the *Bastile, upon false pretences of disloyaltie and treason*, caused new insurrections, warres, and tumults; and the Princes hereupon meeting at *Soyssons, resolved to make open war, to seize on the Kings Revenues, and to fortifie those Towns and Castles which they held in their Government*; which they executed; and withall set forth a *Remonstrance* of their grievances unto the king, complaining especially against the *Marshall of Ancre and his Wife, with their adherents, who were the causes of all their miseries; who having drawn unto himselfe the whole administration of the Realme, made himselfe master of the Kings Councels, Armies, and Forts; thereby suppresst the lawfull libertie and Remonstrances of the Parliament, caused the chief Officers to be imprisoned, and was the cause of the violence done to the Prince of* Conde, *first Prince of the Blood: To the end therefore that they might not be reproached to have been so little affected to his Majestie, so ungratefull to their Country, and so unfaithfull to themselves and their posterity, as to hold their peace, seeing the prodigious favour and power of this stranger; they beseech his Majestie to provide by convenient means for the disorders of the Estate, and to cause the Treaty of* Loudun *to be observed, and to call unto his Counsels the Princes of the Blood, with other Princes, Dukes, Peers, ancient Officers of the Crowne and Councellors of State, whom the deceased King had imployed during his reigne.* Withall they publish a solemne Declaration and Protestation, *for the restoring of the Kings authority, and preservation of the Realme against the conspiracie and tyrannie of the Marshall of* Ancre, *and his adherents:* Who finding no safetie in the settling of justice, resolved to make triall of his power, by violating the publike faith, thereby to plunge the Realme into new combustions, conspiring to destroy the princes of the blood, of Peers, and chiefe Officers of the Crowne, and to oppresse them altogether, with the State, who might be an obstacle to his ambitious designes. To which end he *raised false accusations against them, as if they meant to attempt the Kings and Queen Mothers persons; and caused the King to go in person to his Court of Parliament to publish a Declaration, whereby they were declared guilty of Treason*; though at last being better informed, *he declared them to be his good Subjects*, and caused *De Ancre* to be suddenly slain in the *Louure*, and his Wife to be legally condemned and executed: Vpon which *the new Councellors and Officers advanced by him, were removed, the old restored, the Princes reconciled to the King, and by him declared for his good and loyall subjects:* Vpon which followed a generall assembly of the Estates, wherein divers grievances were propounded, and some redressed; the *King therein craving their advice for the setling and ordering of his Privie Councell.* (*b*) *Anno* 1620. there happen differences between the King and Queen Mother, who fortified Towns, and raised an Army against the king; at last they came to an agreement, and were reconciled. The two following years were spent in bloody civill warres betweene the King and those of the Religion, *who avowed their defensive warres lawfull*; which at last concluded in peace: that lasted not long, but brake out into new flames of war, by reason of the great Cardinall *Richelieu*, who of late years (*c*) *proved the greatest Tyrant and Oppressour that* France *ever bred, reducing both Nobles, Gentlemen, and Peasants into absolute slavery and vassallage*, to make the King an absolute Monarch of *France*, and himselfe both Pope and Monarch of the world: But he lately dying by the of Divine Iustice of filthy Vlcers and Diseases, and the King since being (some say) *poysoned by the Iesuites*, who murthered his two immediate Predecessors: wise men conjecture the

(*b*) *Ibid p.* 220. *to* 306.

(*c*) *See the Synopsis of this life.*

French

French will now at last revive and regain their ancient, just hereditary freedom, rights Liberties, and cast of that insupportable yoke of bondage under which they have been oppressed for sundry years, and almost brought to utter desolation.

I have the longer insisted on these Histories of the Kings and Kingdom of *France*, (which clearly demonstrate the Realm, Parliament and three Estates of *France* to be the Soveraigne Power in that Kingdom in some sort, paramount their kings themselves, who are no absolute Monarchs, nor exempted from the Laws, jurisdiction, restraints, censures of their Kingdom and Estates assembled, as some falsly averre they are) becaus our Royalists and Court Doctors parallell *England* with *France*, making both of them absolute Monarchies; and our greatest malignant Councellors chiefe Designe hath been to reduce the Government of *England* to the late modell and new arbitrary proceedings of *France*; which how pernicious they have proved to that unfortunate Realm, what infinite destructive civill warres and combustions they have produced, and to what unhappy tragicall deaths they have brought divers of their Kings, Princes, Nobles, and thousands of their people, the premisses & other Stories, will so far discover, as to cause all prudent *Kings* and Statesmen, to steer the Helme of our own and other *Kingdoms* by a more safe, steddy, and fortunate compasse. Thus I have done with *France*, and shall recompence any prolixity in it, with greater brevity in other *Kingdoms*, when I have overpassed *Spain*.

From *France* I shall next steer my course to the *Kingdomes* and *Kings* of *Spaine*, whom *Iacobus Valdesius* Chancellor to the *King* of *Spain* in a large Book *de Dignitate Regum Regnorumque Hispaniæ* printed at *Granado*, 1602. professedly undertakes to prove, *to be of greater dignity, and to have the Precedency of the Kings and Kingdoms of* France, which (*) *Cassanæus* and all French Advocates peremptorily deny. The first *Kings* of *Spain*, over-run by the *Goths* and *Wisigothes*, are those their Writers call the *Gothish Kings*, who as *Michael Ritius de Regibus Hispaniæ, L. 1, & 2. Iohannis Mariana de rebus Hispaniæ, L. 2, 3. the Generall History of* Spain, and others affirme, *were elected by, and had their authority from the people:* You may reade their lives and successions at large in these Authors, and finde (d) *some of them disinherited and deposed by their subjects, others of them in ward during their minorities to such as the State appointed; others murdered, but all of them subject to the Lawes of their Realms*, as it is evident by the expresse ancient Law of the *Wisigoths*, having this Title; (e) *Quod tam Regia potestas quam populorum universitas Legum reverentiæ sit subjecta*; by other lawes thereto annexed, by *Iohannis Mariana De Rege & Regis institutione, L. 1. c. 9.* (f) *Those whom they properly call Kings of* Spain, *had their royall authority derived to them, conferred on them by the people; upon this occasion.* Spain, *being a Province subject to the* Roman *Empire, was spoyled, over-runne and possessed by the barbarous* Moors *for many years; in which time the* Spanyards *oft solicited the* Roman *Emperours for ayde to expell the* Moors, *but could gain none. Whereupon to free themselves and their Country from slavery, they chose one* Pelagius *for their Captain, by whose valour they conquered the* Moors, *and thereupon by unanimous consent Elected and Crowned* Pelagius *King of* Oviedo, *whom the Spanish Writers mention as the first King of* Spain: And this their desertion by the Emperours the Spanish Writers generally hold (and (g) *Iacobus Valdesius* proves it largely) *to be a sufficient lawfull ground for the Spanyards, even by the generall law of Nations, to cast off their subjection to the Roman Empire, and to elect a King, erect a Kingdom of their own*

* *Catalogue Gloriæ mundi, pars. 5. Consid. 29, 30. Andrew Favine Theatre of Honour, l. 2. c. 12. See Camillus Barellus de Regis Catholici Præstantia, &c. Generall Hist. of France, p. 90.*

(d) *See Ioannis Mariana de Rege & Regis, Iustit. l. 1. c. 3. p. 33. Hieron. Blanca Ferum Arag. Comment. Sebastian. Toletanum. 8. Surius, Com. T. 2. p. 761, 65.*

(e) *Ioannis Paterius Hispaniæ illustratæ Tom. 3. Leges Wisigothorum, L. 2. t. 2. p. 859.*

(f) *Iacobus Valdesius de dignitate Regum, Regnorumq. Hispaniæ, pars. 1. c. 11. p. 135. Michael Ritius de Regibus Hisp. l. 2. Gen. Hist. of Spain, l. 6. p. 168, 169.*

own, exempt from all subjection to the Emperor, since they purchased their own libertie and Countrey, from the Gothes by conquest, of themselves alone without any aide or assistance from the Roman Emperours, to whom (for this reason) they hold themselves and their Kingdom no wayes subject; yet for all this they deem their Kings inferiour to their whole Kingdoms, and censurable, yea deposable by them, as is cleer by the (h) forecited passage of the Bishop of Burgen, (Ambassadour to the King of Spain, in the Councell of Basill, and by Johannis Mariana the Jesuites Book, de Rege & Regis Institutione, dedicated to Philip the third, King of Spain, printed at Madrit in Spain, by this Kings own speciall priviledge, Dated at Madrit, January 25. 1599. and after this reprinted at Mentz in Germany, Anno 1605. Cum privilegio sacrae Cesariae Majestatis, (to wit, of the Emperour Radulph the second) & permissu Superiorum; who certainly would not thus specially approve, authorize this Book for the Presse, had it maintained any Positions contrary to the Laws, or derogatory to the Prerogative Royall of the Crownes and Kingdoms of Spain, though other States cannot so well digest it. In this very Book the Authour (who hath likewise written a large History of the affaires and Kings of Spain) professedly maintains (in a speciall (i) Chapter, wherein he debates this Question, Whether the power of the Republike, or King be greater?) That the whole Kingdom, State and People in every lawfull Kingdom, and in Spain it selfe, are of greater power and authority then the King: His reasons (which I have for breviey digested into number in his own words) are these: First, because all Royall Power that is lawfull, hath its originall from the People, by whose grant the first Kings in every Republike were placed in their Royall Authoritie; which they circumscribed with certain laws and sanctions, lest it should too much exalt it selfe to the distruction of the Subjects, and degenerate into a Tyranne. This appears in the Lacedæmonians long since, who committed onely the care of Warre and procuration of holy things to the King, as Aristotle Writes. Also by a later example of the Aragonians in Spain, who being incited with an earnest endeavour of defending their libertie, and not ignorant how the Rights of Libertie are much diminished from small beginnings, created a middle Magistrate, like the Tribunall power (commonly called at this time Aragoniæ Iustitia, the Justice of Aragon) who armed with the lawes authoritie and endeavours of the people, hath hitherto held the Royall Power included within certain bounds; and it was specially given to the Nobles, that there might be no colluſion, if at any time having communicated their counsell among themselves, they should keep assemblies without the Kings privity, to defend their Lawes and Liberties. In these Nations, and those who are like them, no man will doubt, but that the authoritie of the Republike is greater then the Kings. Secondly, because in other Provinces where the people have lesser and the Kings more power, and all grant the King to be the Rector and supream Head of the Commonwealth, and to have supream authoritie in managing things in times of warre or peace; yet there the whole Commonwealth and those who represent it, being chosen out of all Estates, and meeting together in one place, (or Parliament) are of greater power to command and deny, than the King, which is proved by experience in Spain, where the King can impose no Taxes, nor enact no Laws if the people dissent or approve them not: Yea, let the King use art, propound rewards to the Citizens, sometimes speak by threats to draw others to consent to him, solicite with words, hopes, and promises, (which whether it may be well done we dispute not:) yet if they shall resist, their judgement shall be preferred and ratified before the Kings will. Thirdly, because when the King dies without Issue or Heir, the Kingdom and people, not the Prince deceased,

(h) Part. 1. p. 6. & Fox Acts & Mon. Vol. 1. p. 879, 810.

(i) Lib. 1. De Regum, Instit. cap. 8. p. 68, &c.

deceased, ought to chuse the succeeding King out of another Family. Fourthly, because if the King vexe the Republike with his evill manners, and degenerate into an open tyrannie, the same Commonwealth may restrain him, yea, deprive him of the Principalitie, and of his life to, if need be; which it could not do unlesse it were of greater Power then the King. Fifthly, because it is not likely that the whole Kingdom and Common-weal would ever strip themselves of all Power and Authority, and transfer it to another, without exception, without counsell and reason, when they had no necessitie to do it, that so the Prince subject to corruption and wickednesse, might have greater Power then they all, and the Issue be more excellent then the Father, the River than the Spring (the Creature than the Creator of it:) *And although perchance it be in the pleasure of the Commonweal to take away the plenary Power from it self and give it to the Prince, yet the Commonwealth should do unwisely to give it, and the Prince rashly to receive it; by which the subjects, of Free-men should become Slaves, and the Principalitie given for their safetie, should degenerate into a Tyrannie, which then onely is Regall, if it contain it self within the bounds of modesty and mediocritie; which Power whiles some unwisely labour daily to augment, they diminish and utterly corrupt it, that Power being onely safe which puts a measure to its strength; for a Prince ought to rule over those who are willing, to gain the love of his subjects, and seek their welfare; which Power if it grows grievous, takes the King off his peoples love, and turns his power into weaknesse:* Which he proves by the forecited Saying of *Theopompus: For Princes who impose a Bridle on this greatnesse, more easily govern themselves, it, and their subjects; whereas those who forget humanity and modestie, the higher they climb, the greater is their fall: This danger our Ancestours, wise men, considering how they might keep their Kings within the limits of mediocrity and modesty, so as not to lift up themselves with overmuch power, to the Publike prejudice, have enacted many things wisely and excellently; among others, this, That nothing of great moment should be decreed without the consent of the Peers and people; and to that end they had a customs to assemble Parliaments chosen out of all orders of men, as Prelates, Lords, and Burgesses of Cities; which customs at this time is still retained in* Aragon *and other Provinces; and I wish our Princes would restore it: For why is it discontinued for the most part in our Nation, but that the common consent being taken away, and Parliaments extluded, wherein the publike safety is contained, both publike and private affairs may be turned into the Princes pleasure, and the lusts of a few corrupt, vicious, and voluptuous Courtiers and Parasites may domineer and order all things. Sixtly, because many great and learned men hold, that the Pope of* Rome, *who is of greater Power then any King, is yet subject to the whole Church and a Generall Councell; therefore the King must much more be inferiour to his Kingdom. Seventhly, because the whole Commonwealth hath greater strength and forces than the Prince, be he never so great in Power; and therefore if they disagree their Power will be greater: Yea,* Aristotle *wisely would have the Commonweal not onely to be of greater authority, but likewise to have stronger Forces then the King;* which he proves by *Aristotles* forecited words, by the practice of the *Ancients,* and those of *Syracuse, who did moderate their Tyrants and Kings Guard so, that they might be able to over-power and master them upon any occasion. How great the authoritie of our Republike and Nobilitie was in the times of our Ancestors, I will give you but one example, and so conclude:* Alfonso *the eight King of* Castell *besieged* Concha, *a City seated in Rockie places, and the most firme Bulwark of the* Moors *territories on that part: wanting money to pay his souldiers, and thereupon provisions failing, the King hastens to* Burgon; Note.

and in a nationall assembly, he demands, that because the people were wearied with Taxes for supporting the Warre, the gentlemen would give five Muruedines a Poll to his treasury; that this opportunitie of blotting out the name of the Mores was not to be omitted. Dieglius *then Governour of* Cantabria, *assented to this Counsell*, Peter *Earl of* Cara *withstood this motion, and gathering a band of Nobles, departed from the assembly, readily to defend with Armes the Liberty gotten by their Ancestors with Armes and valour; affirming, that he would neither suffer a beginning to be made of oppressing and vexing the Nobilitie with new Subsidies, from this entrance or occasion; That to suppresse the Mores was not of so great moment, that they should suffer the Commonwealth to be involved in a greater servitude. The King moved with the danger, desisted from that purpose. The Nobles taking advice, decreed to entertain* Peter *with a banquet every year, as a reward to him and his Posteritie of this good service, a monument so posterity of a thing well done, and a document that they should not suffer the right of libertie to be diminished upon any occasion. Let it be a fixt resolution therefore to provide for the safetie of the Commonwealth, for the Authority of the Prince, yet so as to retain their royall principality in order with certain bounds and limits, and that those vain talking parasites and deceivers may not ruine both, who exalt the Princes Power without measure, of which we may see a great number in Princes Courts, excelling in wealth, favour and power, which plague shall alwayes be accused and complained of, but shall ever be and continue.* Thus *Mariana*, who in his next Chapter (worthy reading) proves at large by invincible arguments, (k) *That all Kings and Princes (among others the Kings of* Spain*) are, and ought to be bound by Laws, and are not exempted from them; that this doctrine ought to be inculcated into thy mindes of Princes from their infancy, and to be beleeved, yea oft considered of them; that they are more strictly obliged to observe their Laws than subjects, because they are sworn to do it; they are the Conservators of the Laws, the Avengers of those that infringe them, and their examples are the best means to draw subjects to obey them.* Where he again affirms, *That the whole Kingdom is above the King, and may not onely binde him by Lawes, but question him for the breach of them.* Before both these, in his first Book *De Rege & Reguminstitutione, Chap.* 3, 4, 5, 6, 7. he affirms the like; adding moreover, *That in many other Realms more, where the Crown is hereditary, the whole Commonwealth, not the King hath and ought to have the chief power to designe by a Law (which the King himself may not alter, but by their consents) who shall be the next Heir, to avoid questions and commotions about the Title to the Crown: That where the Right of the Crown is in controversie the whole Kingdom and State ought to decide the right, and settle it where they see best cause: That if the right Heir in Hereditary Kingdoms, yea in* Spain, *be an Ideot, Infant, Woman, or a person unmeet or not so fit to Govern, as others of the blood, he may be lawfully put from the Crown, and another of their Race lawfully substituted King in his place by the whole State, especially when the good or safetie of the Commonwealth requires it; because the safety of the people is the supremest Law, and what they by common consent have Enacted onely for the publike safetie, they may without any obstacle alter, when things require it, by like common consent; especially, because the hereditary Rights of reigning are for the most part made, rather by the dissimulation of the People, not daring to resist the will of former Princes, then by their certain will, and the free consent of all the Estates: That he which is thus settled by consent of all the Estates hath a just Title against the next Heir of the Blood and his Issue, who are put by the Crown; else divers Kings and Princes now reigning in Spain & elsewhere,*

(k) De Regè & Regum Inst. lib. 1, c. 1.

should

should be usurpers and want good Titles to their crownes, they or their Ancestors being not the next right heires of the Royall stock (for all which particulars he gives sundry instances in the Kingdomes of *Spaine*) as in *Berengaria, Blanch*, the *Mother of Lewes of France, Ferdinand, Sancho the younger sonne of Alfonso, Henry the Bastard, John King of Portugall, Ferdinand, and John the 2. of Aragon, &c. concluding. That if the King degenerate into a Tirant, by subverting Religion, Lawes, Liberties, oppressing, murthering, or deflowring his subjects; the whole Kingdome may not onely question, admonish, and reprehend him, but in case he prove incorrigible after admonition, deprive him, and substitute another in his place; which (saith he) hath been done more then once in Spain: That King Peter was publikely rejected for his cruelty to his subjects, and Henry his Brother (though of an unclean Mother) obtained the Crowne: so Henry his Nephewes Nephew for his slothfulnesse and evill manners was deposed by the Nobles suffrages, and Alphanso his Brother, though but a yong child proclaimed King.* After *his death Elizabeth, (Henry his sister) had the chiefe government of the Realme leaving Henry.* And for a conclusion he addes, *That such a Tyrannicall King continuing incorrigible after publike admonitions of the whole State, if there be no hopes of amendment, may not onely be deposed, but put to death and murthered by the whole State, or any particular persons by their appointment; yea without it,* (a note somewhat above Ela) *if he be declared a publike enemy by the whole state; and in case the whole States cannot publikely assemble by reason of such a Princes knowne notorious tyranny, he writes, That then in such a case it is lawfull for any private man to murther him, to free the Country and Kingdome from destruction.* Adding, *that it is a wholsome meditation for Princes to be perswaded, that if they oppresse the Common-wealth, if they become intollerable thorow vices and filthinesse, that they live in such a condition, that they may not onely be slaine of right, but with laud and glory. Peradventure this feare will retard some Princes that they give not themselves wholly to be corrupted with vices flatterers, and cast bridles upon their fury. That which is the chiefe, let the Prince bee perswaded, that the authority of the whole Common-wealth is greater then his, being but one, neither let him beleeve the worst of men, affirming the contrary for to gratifie him, which is very pernicious.* All these positions of *Mariana* (however other Kings and Kingdomes may relish them, especially the last touching private Subjects, which few can approve, the Parliaments of *France* doing publike execution on this Book, as they had just cause, *for extolling and justifying the barbarous murther of their King Henry the 3. by* James Clement *a Dominican Frier, l. 1. c. 6. p. 51. to 57. and justifying the Guises Rebellion*) *are yet authorized as Catholike and Orthodox by the most Catholike King of Spaine, and the Emperour of Germany*, in whose Kingdomes they passe for currant coyne, the most dangerous of them being seconded, not onely by *Hieronymus Blanca* in his *Aragonensium Rerum Commentariis, Iohannis Pistorius Hispania Illustrate, &c.* and other Spanish Historians collected by him, but likewise by (m) *Alvarus Pelagius, Cardinall Tolet, Capistranus, Dominicus Bannes, Franciscus Victoria, Simancha Patensis, Gregory de Valentia, Suarez, the Doctors of Salamancha, Becanus, Bellarmine*, with other Spanish Iesuites & Writers, who most heretically affirme, *That even the Pope alone either with or without a Councell, for heresie* (as they deem it) *and obstinacy against the See of Rome, may excommunicate, censure, depose, kill, or murther any Christian Princes, depose them from their thrones, dispose of their Crownes to others at their pleasures, absolve their subjects wholly from their allegeance,*

(l) The general Hist. of France, p. 833, 834, 1178 1179.

(m) See Doctor Iohn White his Defence of the way, c. 6. where their words are quoted for tyranny and misgovernment, The Gen. Hist. of France, p. 847 914, 915. 1179, 1180, 1181, 1182 1183, 1190.

allegeance, and give subjects power to rise up in armes against and murther them by open force or secret treachery; which Bishop Bilson *truly affirmes to be farre more dangerous and derogatory to Princes, then to attribute such a power, not to any particular persons but to their own whole Kingdomes and Parliaments onely: who being many in number, of the same Nation and Religion with, and having many dependances on, and many engagements by oath, duty, favours, benefits to their Princes, lesse malice against them, judging onely according to the fundamentall Lawes of the Realme, and former presidents of their Ancestors, and aiming at nothing but their Kingdomes safety, are like to be more just indifferent Judges of their Princes actions when questioned, then the Pope, a meer enemy and forraigner; who proceeds by no other authority, but what he hath unjustly usurped from Kings, and by no other rules but his owne will, pride, malice, honour, or profit.* I have thus given you an account of the Kings of *Spaines* subordination to their whole kingdomes and Lawes in point of Thesis and positive Doctrine approved by themselves, professed by their eminentest Writers, I shall now proceed to Historicall examples to confirme it in point of practise.

(n) Of Christian Subjection, &c. par. 3. p. 519, 520, 521.

(o) *Munst. Cos. l. 6. 20. p. 35. Roderici Archiep. Toletani De Rebus hisp. l. 4. 2. l. 5. 6. 1, 2. Gen. hist. of Spa. 16*

(o) *Ordogno* the 14. king of *Castile*, summoned 4. Earles of *Castile* to appeare before him, who refused to goe to the warres against the *Saracens*, promising them safe conduct, notwithstanding he commanded them to be apprehended, imprisoned and slain; for which bloody Treachery those of *Castile* rebelled against him, rejecting his government, and providing for the safety *of them and theirs*, *Duos Milites*, *non de potentioribus, sed de prudentioribus eligerunt, quos & Iudices statuerunt, &c.* They elected two prudent Knights of their owne to be their Magistrates and Iudges, to governe them, to manage their warres, and administer justice to them: the one was named *Flavius Calvus*, the other *Nunius*, surnamed *de Rasura*, whose Son *Gondesalvus* after his Fathers death, was substituted in his place, made Generall of the Militia; (*Principatum Militiæ addiderunt*) and his son after him, *tam à Magnatibus & Militibus, quam AB UNIVERSIS POPULIS CASTELANIS*, made Earle of *Castile*, and all submitted themselves to his government, rejecting the Dominion both of *Ordogno* and his brother King *Froila* after him, for their tyranny and trechery. (p) *Alphonso* the great King of *Gallecia* about the yeere of Christ 918. imprisoning his eldest sonne *Garsias*, laying him in irons and exercising other cruelties, was by the practise of his owne Queen *Semena* and his other sonnes and Nobles, so prosecuted and put to such streights; that they enforced him to resign his Crown to his sonne *Garcias*, and to deprive himself of his government in the presence of his sons and the grandees of his Realm; after which he requested his sonne to raise and grant him an Army to goe against the Sarazens, who condescending thereto, hee gained a glorious Victory ouer them, and so dyed.

(p) *Rodericus Toletanus de Rebus Hisp. l. 4. c. 19.*

(q) *Alphonso* sonne of *Ordogno*, King of *Castile*, after 5. yeers reigne, out of levity rather then Religion, resigned his Crown to *Ramire* his younger Brother, and then turned Monk about the yeer 939. but not long after, casting off his Coul & leaving his Monastery, he began to raise forces, and to aspire to the Crown again which he had resigned; whereupon *Ramir* raised an Army against him, and after 2. yeers warres took him prisoner, put out his eyes, and thrust him into a Monastery. (r) *Iohn* the first, the 35 King of *Castile* after the death of *Ferdinand* King of *Portugall* claimed that kingdome in right of *Eleanor* his wife and next Heire, but the *Portugals* elected *Iohn*, a bastard, a Knight of the blood Royall for their King, and excluded *Eleanor*. *Henry* the

(q) *Roder. Tol. l. 5. c. 4, 5. Munst. Cos. l. 2. c. 20. Gen. hist. of Spain. l. 7.*

(r) *Munsterii Cosmogr. l. 2. c. 20. p. 78. Gen. hist. of Spain.*

the 4. the 38. King of *Castile*, having no children lawfully begotten, would have made *Elizabeth* his bastard daughter heire to the Crown; but the Nobles would no wayes permit it; and resisting him with all their might, preferred his own sister *Elizabeth* to the Crown, and married her to *Ferdinand* the 6. sonne to *John* King of *Arragon*, rejecting his spurious daughter. And Frier *John de Texeira* in his Book of *The Originall of the Kings of Portugall*, affirmes, that the Kings of *Portugall* were usually *ELECTED BY THE SUFFRAGES AND FREE CHOICE OF THE PEOPLE*, who had power to conferre the Kingdome on whom they pleased: averring, that *Alfonso* 1. 3. and 5. *John* the 1. *Emanuel* and *Antonio*, Kings of *Portugall*, were thus elected. Which though (*f*) *Duardus Nonius Leo*, a Portugois Lawyer denyes, and seemes to refute; yet he grants freely, *that the Parliament or Assembly of the Estates in Portugall have usually determined the Title, Right, and ordered the Succession of that Crown in the Cases of these Princes, and determined of their Legitimate or spurious birthes: That when the Kings of Portugall have dyed without Heires, they have BY THE LAW OF ALL NATIONS freely elected whom they thought meetest for their King:* And that after the death of King *Ferdinand*, they put by *John* and *Ferdinand* the sonnes of King *Peter*, begotten of *Agnes de Castro* his Concubine, from the Crown, *because they were bastards; and moreover enemies to the name and Realme of the Portugois, entring with Henry and Peter Kings of Castile, in an hostile manner with an Army into the Confines of Portugall wasting them every where, and doing great dammages to, and committing many murthers among their Citizens; for which reason, the States assembled at Coimbri, resolved, that although they were legitimate, yet THEY COULD NOT OBTAIN THE SUCCESSION OF THAT KINGDOME, quod se hostes & alienos a Portugalia declarassent, because* THEY HAD THVS DECLARED THEMSELVES ENEMIES AND ALIENS TO PORTVGALL. *And therefore beleeving the Kingdome to be void for want of a right heire to succeed, in which case,* BY THE LAW OF ALL NATIONS THEY MIGHT LAWFVLLY ELECT THEM WHAT KING THEY PLEASED, *they chose John the Bastard, King.* After which he shewes, that *Philip* the 2. his Title to the Crown, *was long debated by, and resolved in the Assembly of the States of Portugall* in the life of king *Henry*, *who summoned all the Pretenders to the Crown to come and declare their Titles to it in a Parliament held at Almerin, upon the Petition of the Senate and People, who earnestly pressed him, that the Title of the crown might be setled and discided during his life, to prevent division and civil warres after his death:* By which it is apparent, that the Assembly of the Estates of *Portugall*, is the most Soveraign power and above their kings themselves.

(*f*) *Censure in F. Iosephi Teixeræ lib. III. c. 75. to 83. De vera Regum Portugalium Genealogia, lib. 2. Tom. 2. Ioannis Pistorii Historiæ illustratæ.*

It is clear, that the *Gothish* kings which reigned in *Spain* were not hereditary, but elective, yea, censurable, excommunicable, and despoſable by them for their Maleadministrations. (*t*) The *Generall History of Spaine* is expresse, *that among the Goths they did not reigne by right and succession from Father to Sonne, but those were chosen Kings among them, which were held worthy; which election was made by the Nobility and People, and if any one did affect that dignity by any other unlawfull meanes, he was excommunicated and rejected from the company of christians; as appeares by the* 5. *Councell of* Toledo. Thus *Vallia* the 1. king of the *Goths*, *An.* 418. *Agila* the 11. king *An.* 546. *Luiba* the 13. king *An.* 565. *Gundamir* the 18. king *An.* 610. *Suintilla*

(*t*) *Lib. 5. p. 146. Ioannis Mariana, De Rebus Hisp. l. 6. c. 4. 6.*

the 20. king *An* 621. (*v*) *Tulca* the 23. king *An.* 642. *Bamba* the 26. king of *Goths*, *an.* 672. to omit others, were elected by the Nobles and people, though now and then the Crown went by succession through usurpation rather then right,

(*v*) *Gen. hist. of Spain, l. 5. p. 122. 140, 145, 146, 147, 149. Ro. san hist. Hisp. pars 2. in their lives, Ioan Mariana de Rebus Hisp. l. 5. & 6.*

(*x*) *Theodiscle* the tenth king of the *Goths* in *Spaine*, giving himselfe to lusts and adulteries, polluted great and honest families, corrupted Nobles wives, and committed many murthers; whereupon the chiefe of the *Goths* conspiring against him, strangled him at *Sevill* rioting in his banquets, and elected *Agila* for their king: So *Victrix* the 17. king of the *Goths*, a vitious base unworthy Prince, was miserably slain by his own people for his vitiousnesse, as he sate at Table. (*y*) *Suintilla* the 20. king of the *Goths*, in the beginning was a good Prince, but in the end he grew exceeding covetous and cruell; wherefore the *Goths made him resign his Kingdome about the yeare 630. and deprived him of the crowne, he was likewise excommunicated by the Bishops (whose power at that time began to equall that of Kings) at the 4. Councell of* Toledo; *which interdicted him, with Geilands brother, their wives and children, the communion and fellowship of the Church, and the possession of their goods gotten by violence and tyrannicall meanes*; and *Sisenand* his adversary, with the *consent of the people, obtained the Kingdom.* The 6. (*z*) Councel of Toledo under *Cinthilla* the 22. king of *Goths, about* the yeare 686. *decreed, and by a perpetuall law imposed on the Kings of* Spain, *not to suffer any one to live within their Dominions, which was not a Catholike; the which their kings should solemnly sweare before they were crowned; and if any king should goe against that Law which he had thus sworn, he should be excommunicate and accursed in sight of the eternall God, and made the fuell of eternall fire: which Canon was made, not only by the assent of this king & his Bishops but likewise with the consent & deliberation of his Nobles and great men.* In the (*a*) 5. Council of *Toledo* under this king it was decreed, *Can.* 2, 3, 4 5, 6, 7. *That the kings children and faithfull servants after their deaths, should not be deprived of the lands, honours, and just rewards by the succeeding kings, which had been conferred on them in their lives; That no man should aspire to the crowne licentiously, under paine of excommunication and a divine Anathema, whom neither* THE ELECTION OF ALL, *nor the Nobility of the Gothish Nation had not advanced to this top of honour. That none should, during the kings life, endeavour or use meanes to succeed him after his death; nor yet revile the Prince, under paine of excommunication.* All which particulars were ratified by new (*b*) Canons in the 6. *Councell of* Toledo under this king. *Can.* 14, 15, 15, 17, 18. with this addition; *That the king being dead, none should usurp the kingdome by tyrannicall presumption; that none who had been shaven a Monke, or dishonestly bald, or descended from a servile stocke, or a man of a forraign Nation, unlesse worthy both in respect of his Pedigree and manners, should be promoted to the Throne of the Kingdome; nor no man attempt the Princes destruction, life, or usurp his Crowne tyrannically, under pain of being smitten with a perpetuall Anathema, and eternall condemnation, for breach of any the premises.*

(*x*) *Gen. hist. of Spain, l. 5. p. 139 140. 145. Rod. sanct. hist. Hisp. pars 2. c. 15. 22.*

(*y*) *Gen. hist. of Spain l. 5. p. 146*

(*z*) *Gen. hist. of Spain, l. 5. p. 147 Concil. Toletanum 6. c. 3. Surius Concil. Tom. 2. p. 742.*

(*a*) *Surius Concil. Tom. 2. p. 739. 740. Mariana de Reb. hisp. l. 6. c. 6.*

(*b*) *Surius Concil. tom. 2. p. 744 745. Mariana de Rebus Hisp. l. 6. c. 9.*

(*c*) *Gen. hist. of Spain, l. 5. p. 149 150 Roder. san. hist Hisp. par. 2. c. 32. Surius Concil. tom. 3. p. 3 Mariana de Rebus hisp. l. 6. c. 12, 14, 17.*

These Councels, as *Mariana* observes, were in truth Generall Assemblies of the Estates, where they handled not only matters of Religion, but likewise of the Commonweale by common consent of all. *Bamba* the 26. king of the *Goths* (after (*c*) *Lewes de Mayern Turquets* computation which I follow, but 32. after *Roderick Sancho*) was elected king by the *Goths*, as he was plowing with his Oxen in the field, being a plain countrey man. Some say, *that he would never have received this honour and charge, but by constraint, and that refusing it absolutely, a Noble man of the Goths drew his*

Sword

ſword, and threatned to kill him if he did not yeeld to the Gothes *intreaties, and that his Goad wherewith he drove his Oxen did ſuddenly in his hand bring forth leaves, fruit, and roots*; whereupon he took this dignity upon him, more for feat than for any deſire to reign. *Anno* 672. After which *Eruinge* ambitious of command, poiſoned king *Bamba*, ſo as he became madde; for curing whereof many naturall and ſuperſtitious medicines were applyed, but to ſmall effect; ſo as *Bamba* coming a little to himſelf again, and finding his diſabilitie to govern, willingly quit the Crown, and retired himſelfe into a Monaſtery at *Pampliga*, where he lived ſeven years and one moneth, and (d) *Eruinge* was choſen king in his place, *whoſe Election was confirmed and allowed lawfull in the* 12 *Councill of Toledo, Can.* 1. *as Elected thereto by God, and* ALL THE PEOPLES DESIRES; *whom this Councell abſolved from their Oath of allegiance formerly made to King Bamba, whiles he held the Kingdom.* In the (e) thirteenth Councell of *Toledo* under this King *Eruinge*. *Anno* 684. it was decreed, *That neither the King nor any other ſhould marry the Widow of the deceaſed King, upon pain of excommunication, and to be damned to Hell fire.*

(d) *Surius Concil.* 3 *p.* 2. 4. *Mariana de Reb. Hiſp. l.* 6. *c.* 17.

(e) *General Hiſt. of Spain. l.* 5. *p.* 151.

Vitiza (f) the nine and twentieth King of the *Gothes*, at his firſt coming to the Crown, ſhewed himſelf milde, liberall and religious, but ſoon after became the infamy and diſhonour of Kings, being full of all exceſſe of luſt, impiety, hypocriſie and diſſimulation, and exceeding in all vices without ſhame; he filled his Palace with many Wives, which he married, and Concubines too; he publikely allowed to all men, Nobles, Commons, Prieſts and Clergy, to marry as many wives, and keep as many Whores as they pleaſed; he uſed great crueltie to many: flattered the Clergy, leſt by their cenſures they ſhould draw the people from obeying ſo filthy and unchaſte a king. To prevent all rebellions (under the colour of peace which *Spain* did then injoy) he cauſed all the Towns of *Spain* to be diſmantled, except *Leon*, *Toledo*, and *Aſturica*; he diſarmed the people, diſanulled all the immunities of the Church; he recalled the baniſhed the Jews, and granted them great priviledges; he advanced a moſt wicked wretch to great honours, execrable to all the people, that ſo he might not ſay, himſelf was the worſt of men: Finally, as a preſage of his future miſeries, he ſhewed (in all ſorts of exceſſe and violence, contrary to the Laws of God and men) what Princes ill inſtructed and ignorant of true pietie could do: A *Buffone* asking him merily, Why do you being a King & the ſon of a King, do thus, you may loſe your Kingdom? He replyed like another *Dionyſius*, My Father left me his kingdoms, not fortune. In fine, (g) *Rodorick* with the ayd of the *Gothes* Nobility and of the *Romanes*, chaſed this infamous Monſter out of the Throne, which he unworthily held, defeated, and took him priſoner in a ſet battell, put out his eyes as he had put out others, confined him to *Cordova*, where he ſpent his dayes in miſery, without Title or honour, and by ſuffrages of the people (g) *Rodorick* obtained the Crown; who ſoone after exceeded *Vitiza* in all manner of vices, cruelty, and tyrannie, and raviſhed the daughter of *Julian* Earl of *Cava*, whiles he was in embaſſage in *Affrick* for the affairs of the kingdom; Who to revenge this indignity, and caſt out this wicked Monſter, *Anno* 713. called the *Mores* into *Spain*, who over-ran and conquered the Kingdom, deſtroyed *Rodorick*, and put a Period to the *Gothes* kingdom in *Spain*. Thus Tyrannicall vitious Princes ruine at laſt both themſelves and their Realms.

(f) *Gen Hiſt. of Spain, l.* 5. *p.* 152, 153. *Rod Sanct. Hiſt. Hiſp. pars.* 2. *c.* 15 *Mariana de Rebus Hiſp. l.* 6. *c.* 19.

(g) *Gen. Hiſt. of Spain, l.* 5. *p.* 153, 154, 155 *Rod. Sanctius, Hiſt. Hiſp. pars.* 2. *c.* 37. *Mariana de Rebus, Hiſp. l.* 6. *c.* 21, 22, 23. *Illuſtrate,*

Among the (h) Lawes of the *Wiſigothes*, *Lib.* 2. *c.* 2. 6. I finde not onely an Act *declaring their Kings to be ſubject to their Lawes as well as ſubjects*, but likewiſe a Law

(h) *In Iohannis Piſtorius, Hiſp. Tom.* 3. *p.* 859, 860.

restraining their Kings excesses, and dis-inabling them to alien their Crown lands or revenues to their own Children or others, but onely the Lands which themselves shall purchase; which was likewise decreed in the eighth (*i*) *Councill of Toledo*, under king *Recesuinthus*, wherein there was this complaint made. *Quosdam conspeximus Reges, post quam fuerint regni gloriam assequuti, extenuatis viribus populorum, rei propriæ congerere lucrum; & obliti, quod reges sunt vocati, defensionem in vastationem convertunt, qui vastationem defensione pellere debuerunt; illud gravius ennectentes, quod ea quæ videntur acquirere, non regni deputant honori, vel gloriæ, sed ita malunt in suo jure confundi, ut veluti ex debito descernant hæc in liberorum posteritatem transmitti:* Resolving, that *non persona sed potentia hæc subdi debere, non habenda parentali successione sed possidenda regali congressione; regem terrenum jura faciunt, non persona, &c.*

(*i*) Surius Concil. Tom. 2. p. 864, 865.

I likewise finde another (*k*) *Law nullifying all unjust judgements and sentences given by Iudges through fear or command of the King*. And another Law, *giving the King power over all offendors against himself, but denying him power to pardon any Delinquents against the Nation or Countrey*. All which considered, prove the whole State, Kingdom and Councels among the Spanish *Gothes*, to be above their kings, who were lyable to their restraints, excommunications, Lawes, Censures, Depositions, for their male-administrations, vicious lives, and not successive but elected by them.

(*k*) *Legis wisigoth. l. 2. c. 2. p. 869. and l. 6. c. 7. p. 936.*

(*l*) *Pelagius* the first king of *Oviedo*, was elected king, and that kingdom erected by the generall consent of the people oppressed by the *Moors*, about the year, 618. during whose reigne were severall Vice-royes of the *Mores* in *Spain*, as *Alcazazin*, and *Alhatan* and others. His sonne king *Fasila* was slain by a Bear which he pursued in the mountains: I doubt his Subjects would have resisted him as well as the Bear, had he made war upon them. *Froila* the fourth king of *Oviedo* treacherously slew his own brother *Utmaran* a gallant Knight, generally beloved, (out of jealousie) lest he should usurpe the Crown; in revenge of whose death he was soon after slain by his own brother *Aurelius*, *Anno* 767. who succeeded *Froila* in the Realm, notwithstanding he left a son called *D. Alphonso* the chaste; but the hatred that the Noblemen did bear unto his father, was the cause of his rejection, being then also very young; whereby it appears, that the right of succession was not in those dayes practised in *Spain*; *Silo* his brother in Law succeeded him; after whose death by generall consent, the kingdom was given to *Alphonso*. (*m*) *Ramir* the tenth king of *Oviedo* did that which all other Princes abhor, for he received his son to be companion with him in his kingdom, and caused his brother *Garcia* to reign with him, so as there were now two kings and Courts in *Oviedo*, both agreeing well together. *Anno* 894. *Froila* dying without issue, because his children were too young to reign, the Nobles conferred the Kingdom on *Alphonso* the fourth, who after five years turned Monke. (*n*) *Ramir* the third, twentieth king of *Leon*, abandoning himself to a voluptuous life, contemned all good counsell, so as the Earls and Noblemen of *Gallicia* seeing his folly, and discontented with his vices, scorned him, and would no more acknowledge him to be their king, electing *Bermund* for their Soveraigne, and intituled him king of *Gallicia*, which title he enjoyed ten years: About which time the *Moors* in *Spain* which had one king reigning at *Cordova*, after the death of king *Mahomet*, *made so many petty kings, as there was scarce any good town in* Spain, *but had a particular King, which made strict alliances among themselves for the preservation of their estates.* (*o*) *Anno* 1071, *Garcia* king in *Gallicia* growing a tyrant, spoiled and ill intreated

(*l*) *Gen. Hist. of Spain, l. 6 p. 169 171, 172, 173, 174, 175, 177. Mariana de rebus, Hisp. l. 7.*

(*m*) *Gen. Hist. of Spa. l. 6. p. 183*

(*n*) *Gen. Hist. of l. 7. p. 211. 226. Mariana de rebus Hisp. l. 8. c. 8.*

* *Ioan Vasæi Hisp. Chron. An 899. p. 714.*

(*o*) *Gen. Hist. of Spain, l. 8. p. 242. Mariana de rebus Hisp. l. 9. c. 8. 9.*

treated his Subiects, governing himself after the appetite of a base woman, who put the Nobilitie and Gentry in favour or disgrace with the king as she pleased, [illegible] in the end growing insupportable, certain Knights slew her in the kings presence; His brother *Sancho* taking advantage of the peoples hatred, entred his Realm with a great Army; who thereupon being deserted generally by his people, fled to the *Moors* for ayd, and fell to spoil his own Countrey, after which he was defeated, taken prisoner, and so kept in the Castle of *Lune* with a good Guard till his death.

I read in (*p*) *Iohn Mariana*, that in the *Councill of Florence* under Pope *Victor* the second, *Anno* 1055. *Hildebrand* a Cardinall Deacon Embassadour to *Henry* the second, Emperour of *Germany*, complained in the Councill against *Ferdinand* king of *Spain*, in the Emperors Name, *That against the Custom of his Ancestors and prescript of Laws, he did with incredible arrogancy and levity hold himself exempt from the power of the* Roman *Empire, which if any himselfe could gladly suffer, if there were no other losse but of his own honour; But since the estate of Christendom could not well subsist, and the Popes Authority would likewise be impaired, unlesse all Christian kingdoms were united and knit together under one temporall head the Emperour, whom they should obey; they ought to suppresse the springing temerity in the Wombe, lest by their neglect spreading it selfe into other Provinces, animated with the sweet, and oft-times deceitfull name of libertie, the sacred Majestie of the Empire and Popedom should be reduced to an empty title; wherefore he desired them to interdict all Spain, and excommuniate the King; which if they did, he would be assistant to the Churches honour and Republiks safety then indangered: But if they refused it out of fear, he would not be wanting to the honour of the Empire, & would certainly look to himself in private.* The Pope after some deliberation, approved this motion as just, & thereupon sends Legats to *Ferdinand* in his own and the Councils name, *to satisfie the Emperors demands forthwith, under pain of present excommunication.* The King doubtfull and fearfull whether to obey or not, summons a generall Assembly of the Estates of the Realme: *The Clergy and religious sort of men perswaded submission, for fear of the Popes excommunication; the fearfuller sort concurring with them, by reason of the Emperours power and their own weaknesse and distraction, and the Kings desires of peace inclined most to their opinion.* But some heroick spirits *thought that a most grievous taxe should thereby be laid on the liberty of* Spain; *which being once admitted on their necks, they should hardly shake off again; that it was better to die fighting, then that the Republike should be involved in so great a mischief and indignitie. Rodoricus Diacius*, a noble Spanyards opinion (then absent from the assembly) being required by the king and it, answered. *That this was no matter of Counsell: that what was gotten with Arms was to be defended with Arms; that it seemed most unjust, that the fruit of others valour should return to those who in their lost condition had not communicated in the labour and danger which recovered it; that it was better to die valiantly, than to lose the liberty gained by their Ancestors, to become a mocking-stock to a barbarous and cruell nation, who contemned all men but themselves; whose ears were proud, whose speeches contumelious, whose accesse difficult, riotings new, cruelty inhumane; Shall we who have yet hardly escaped the servitude of Moors, undergo a new bondage prepared from the Christians? They will deride both us and ours. Doth the whole world, as farre as Christianity extends it selfe, obey the German Emperours? Shall all the grace, power, honour, riches gained by ours, and our Ancestors blood, give place to the Germans? Shall they leave dangers, repulses, indge-*

(*p*) *De rebus Hisp. lib. 9. c. 5.*

men, want to us? Shall Germany again lay on us the yoke of the Roman Empire, which our Ancestors have shaken off? Shall we be a vulgar people without grace, without Empire, without authority, obnoxious to those, to whom if we had vigorous mindes, if we were men, we might be a terrour? But it is difficult to resist the Emperous endeavours, not to obey the Roman Pontifs commands; verily it a basnesse of spirit, for an uncertain fear of war, to involve the Commonwealth in most certain dangers: many things are effected by triall, which seemed difficult to slothfull men. I know not what stupidity hath seized on many, whom neither glory moves, nor the infamy of the wretchednesse, thinking it great liberty enough if they be freed from scourges. I suppose the Popes ears will not be so averse to our affairs, that he will not be moved with our most just prayers, and the equity of the cause; Let some now be sent, who may boldly defend the cause of our liberty before him, and teach him, that the Germans demand unjust things. Mine opinion is, that the liberty gained by our Ancestors, is to be defended with arms against the attempts of all men, and with this my sword I will maintain, THAT THEY ARE MOST WICKED TRAITORS TO THEIR COUNTREY, who out of a simulation of a fond Religion, or shew of preposterous caution, shall give contrary advice, neither shall resolve, that servitude is to be repudiated with greater care by us, then domination is affected by them. So farre forth as every one shall addict himself to the liberty of his Countrey, so far shall I be a friend unto him, or a deadly enemy. This opinion of *Roderic* prevailed, in pursuit whereof they raise an army of ten thousand men, whereof he was made Generall; they send Ambassadours to the Pope and Councill, whereof *Roderic* was chief; and upon a full hearing of the cause before *Rupert* Cardinall of Saint *Sabria*, the Popes Legat, at *Tholouse, judgement was pronounced for the liberty of* Spain, *and it was decreed, That the German Emperors should from thenceforth have no power nor jurisdiction over the Kings of* Spain; which was afterwards confirmed by *the customes of the people, the consent of other Nations, the publike resolution and judgement of Lawyers*; as *Iacobus Valdesius* in his Book *de dignitate Regum Hispaniæ* printed 1602. *Cap.* 18. proves at large.

(q) *Lib.* 8. *p.* 240

(*q*) The *Generall History of* Spain, records, that the Councill of *Florence* resolved, *that seeing the Kings of* Spain *had defended and conquered their Realms by Arms, without any ayd from the Emperours, they were free and exempt from all subjection and acknowledgement to the Emperors*; whereof we may read the *Glosse* upon the Chapter *Adrianus Papa, distinct.* 63. *The like priviledge have the Kings of* France, *the State of* Venice, *the Kings of* England, *and some others*; Which clearly demonstrates, the Soveraign power of Kingdoms and Nations even over their Kings and Princes, and that they may justly defend themselves, and Elect other Princes, when they are deserted or destroyed by them.

(r) *Gen. Hist. of Spain, l.* 8. *p.* 243

(*r*) *Anno* 1083. *Sancho Ramires* king of *Aragon*, to supply the charges of his wars against the *Moors*, was sometimes forced to use the revenues of his Clergy, his Treasure being not able to furnish so great a charge; but the Bishops of his Countrey, who affected nothing more but to enrich their own Order and State, opposed themselves against him, and afflicted him in such sort, as putting him in a vain fear, that he was damned for this cause, *They made him do Penance in the Church of* Roda *before* Saint Vincents *Altar, in the presence and at the pursuite of* Raymund *Dolmare, Bishop of that place, the Bishop of* Jarca, *and others, and to confesse publikely, that he had grievously offended. Thus these good Fathers publikely insulted over their Soveraigne.*

(*s*) *Anno*

(f) *Anno* 1091. king *Alphonso* granted this priviledge, among other, to *Toledo*. *That the City of Toledo might never be alienated from the Crown, nor given upon any Title whatsoever, to man, woman, or child.* (f) *Gen. hist. of Spain, l. 8. p. 256.*

Anno 1076. *Sancho* King of *Navarre* was slain in battell by his brother *Raymond* thinking to reigne after him, but the *Navarroyes* expelled him out of their confines, disdaining that he should raigne over them, who had embrued his hands in his kingly brothers blood, and sending to *Sancho Ramires*, 4. king of *Aragon*, called him to raigne over them, because their slain kings sonnes were too young to raigne, and protect them from their enemies; by which meanes the kingdomes of *Arragon* and *Navarre* were united. (v) *Veracha* Queen of *Castile*, a most lascivious open Adultresse, by her unchast life so farre provoked her husband *Alphonso*, that he was divorced from her, made warre against her and confined her: After which she still continuing in her lewdnesse, the Nobility and States of *Castile* and *Leon*, revolt from her, take armes against her, depose her from the Crowne, and elect and crown her sonne *Alphonso* the 8. king *An.* 1122. allowing her onely a pension to support her life. (x) *Alphonso* King of *Arragon* by his last Will and Testament, most solemnly ratified, for the expiation of his sins, gave divers crown Lands, Tenements, Revenues, and Legacies to Religious houses and persons, *An.* 1132. but being prejudiciall to the Crown, his Will after his death was held void and not put in execution: he being slain by the Moores *An.* 1134. the States of *Arragon* elected one *Peter Tares* for their King: who growing exceeding proud of his new dignity, began to despise the Nobles, and abrogate the Lawes and customes of the Country: And the Nobles (being assembled at a general Assembly of the States) going to visit him, he comanded his Porter to shut them out, saying, that Mounsieur was busie about matters of great importance, but they understood afterwards, that the great affairs causing him to exclude his friends were, his Barbar was trimming him: which so incensed the Nobles and great men, that the next day they held their generall Assembly of the Estates without the King; where they first of all decreed to depose their new king, because being in honour he had no understanding of himselfe, and because they found he would grow more proud and insolent afterwards: whereupon expelling *Peter*, the Estates assembling at *Boria*, elected *Ramier* a Monke, brother to king *Alphonso*, for their *King*; who was much derided of his Nobles for his Monkish simplicity, and at last turned Monk againe: But those of *Navarre* thinking a Monk to be better acquainted with the matters of a Monastery then how to govern a Kingdome, and being jealous that the *Arragonoys* by chusing a King of the blood Royall of *Arragon*, would by this meanes aspire to the chief places of honour and favour in Court, it was concluded, that the Estates of *Navarre* should assemble at *Pampelone*, where they chose *Garcia Remires* their King of *Navarre*; and so the Realmes of *Arragon* and *Navarre* which had been united 58. yeers, were seperated in these two Kings. The Kingdomes of *Spain* being often before and since this time united and divided, as the people and Realmes assented or dissented thereunto. (y) Not to mention the troubles of *Castile* by reason of the nonage of their king *Alphonso* the fourth, *of whose custody and tuition the assembly of the Estates disposed*; or how some Knights of *Castile* slew a Iew, with whom this king was so enamoured, that he forgot his new Spouse, and almost lost his sences. *Anno* 1179. king *Alphonso* assembled the Estates of *Castile* at *Burgon*, to leavie a Taxe upon the people, *whereto the Nobilitie, as well as the rest, should contribute, imposing*

(t) *Hyeron. Blanca Arogon. Rerum. Com. in Sanct. 4. p. 626. Gen. Hist. of Spain, l. 8 p. 243.*

(v) *Gen. hist l. 9. p. 274. to 279 Ioan Mariana de Rebus Hisp. l. 10. c. 8. Rod. sanct. hist. Hisp. pars 3. c 30.*

(x) *Gen. Hist. of Spain, l. 9. p 281. 282. to 287. Rod. Sancti hist Hisp pars 3. c. 30. Mariana De Reb. Hisp. l. 10. c. 5.*

(y) *Gen. hist. of Spa. l. 10. p. 307. to 312. 315. 321. 326.*

posing 5. Maravidis of gold for every person; but it took no effect: for all the Gentlemen of Castile being discontented, that he sought to infringe their Liberties, fell to armes, and being led by the Earle Don Pedro de Lara, *they were resolved to resist this tax, and defend their Liberties with the hazzard of their lives.* Whereupon *Alphonso changed his opinion, and let them understand, that from thenceforth he would maintain their immunities; and that whatsoever he had then propounded, was not to continue, but only to supply the present necessity of affaires, which he would seek to furnish by some other meanes.* For the great resolution which *Don Pedro de Lara* shewed in this action, the Nobility of *Castile did grant to him and his successours, a solemn breakfast in testimony of his good endeavour in a businesse of so great consequence, and thereby the Lords of Lara have the first voyce for the Nobility in the Court of Castile.* (z) An. 1204. *King Alphonso* the Noble called a Parliament of the Lords, Prelates and Deputies of the Townes of his Realm at *Toledo*, to *advise and assist him in his warrs against the Moores;* where they concluded to crave ayd from all Christian Princes, and a Crosiado from the Pope against the Moores, and made divers Lawes to restrain the superfluities of the Realm in feasts, apparell, and other things.

Gen. Hist. of Spain, l. 10. p. 339. Mariana de Reb. hisp. l. 11. c. 23.

(a) *Iames* the 8. King of *Arragon* being young at the time of his Fathers death, it was thereupon after ordained in the assemblies of the Estates of *Mencon* and *Lirida*, that *Don Sancho* Earl of *Roussilon* should govern the Realm during the Kings minority; but they gave him limitation: The Kings person they recommended to Frier *William of Moncedon*, Mr. of the Templers: After which *An.* 1220. this yong kings Vncles seeking to wrest the Realme from him instead of governing it, by the fidelity of the Estates and their authority, his interest was preserved, and three Governours with a superintendent of his Provinces were appointed by them; and to prevent the continuall practises of the Earles of *Roussillon* and *Fernand* the king Uncles, *the States and justice of* Arragon *declared the King of full age when he was but ten yeeres old, and caused the Earle of Roussillon to quit the Regencie; the authority of the justice of* Arragon *being then great for the defence of the publike liberty.*

(a) *Gen. hist of Spain, l. 10. c. p. 346, 347. l. 11. p. 350, 351. 352. 353. 354, 355, 356.*

An. 1214. *Alphonso* the Noble king of *Castile* dying, his sonne *Henry* being but 11. yeer old, the Prelates, Nobles and Commons assembled at *Burges*, having declared him king, and taken the oath, *made Queen Eleonora his Mother, Governesse of his Person and Realms:* after whose death, the custody of him was committed to the hands of the Lords of *Lara*: This king afterwards playing with other yong children of Noble Houses at *Palenca* in the Bishops Palace, one of them cast a tyle from the top of a Tower, which falling on the covering of an house, beat down another tyle, which fell on the young kings head, wherewith he was so grievously hurt, that hee dyed the eleventh day after. *An.* 1217. yet this his casuall death (for ought I finde) was neither reputed Felony nor Treason in the child that was the cause of it. After whose death *Fernand* the 3. was proclaimed and made King by the States of *Castile*, to prevent the pretentions of the French: after which his Mother Queen *Berenguela* in the presence of the Estates, renouncing all her right to the Crown, resigned it up to her sonne *Fernand*: About this time the Moores in *Spain* rejected the *Miraluminas* of Africk, and *created themselves all Kings and Kingdomes in Spain, being never more united under one Crown after this division*, which they thought it lawfull for them to make.

(b) *Gen. hist. of Spain, p. 363, 366, 367, 368.*

An. 1228. the Estates of *Arragon* assembling at *Barcelona*, they consenting and requiring

requiring it according to the custome of the *Arragonians* and *Cattelans*, (*these Estates having authority to make Warre and Peace, and Leagues*) *a warre was resolved against the King of the Moores and Majorkins. Anno* 1231. the Realm of *Navarre* being very ill governed, by reason their King *Sancho* retired to his chamber, did not speak with any man but his Houshold servants, and would not heare of any publike affaires; *thereupon the State began to think of electing a Regent to govern the Realm during his retiredneſſe*; to prevent which, *Sancho* made an unjuſt accord with the king of *Navarre*, and confederated with *Iames* King of *Arragon*, by the *aſſents of the States of the Realm to leave his Kingdome to him if he ſurvived him*; yet after his death *Thibault* Earle of *Champaigne was by the States of* Navarre *elected and proclaimed King*. And *anno* 1236. The Eſtates of *Arragon* and *Cateloigne* aſſembled at *Moncon* for the continuance of the warre with the *Moores* and conqueſt of *Valentia*, *without whom it was not lawfull for the King to undertake any matter of importance*. For maintenance of this warre, a custome called *Marebetine*, *and an exaction of impoſt for cattell was by the Eſtates impoſed on the People*; *it was likewiſe decreed, that all peeces of Gold and ſilver coyned ſhould be of one goodneſſe and weight, to the obſervation of which Edict for coynes, all were bound to ſweare that were above* 18. *yeers of age*.

(*c*) *Anno* 1236. *Iames* King of *Arragon*, revealing to his Confeſſor the Biſhop of *Girone*, that before his marriage with Queen *Yolant* he had paſſed a matrimoniall promiſe to *Thereſa* of *Bidame*, ſhe ſued him thereupon before the Pope, who gave ſentence againſt her for want of ſufficient witneſſe, notwithſtanding his Confeſſors teſtimony: The King hereupon grew ſo angry with the Biſhop for revealing his ſecrets, that ſending for him to his chamber, he cauſed his tongue to be cut out: For which out-rage committed on the Biſhop, though faulty, the Pope in the Councell of *Lions* complained, and in the end interdicted all the Realme of *Arragon*, and excommunicated the king. Hereupon to take off this interdiction and excommunication, the king ſent the Biſhop of *Valentia* with his excuſe and humiliation to the Pope; wherewith he being ſomewhat pacified, ſent two Legates into *Arragon*; who having aſſembled a Synod of *Biſhops* at *Lerida*, they *cauſed the King to come thither, and to confeſſe his fault upon his knees before theſe fathers, with great ſubmiſſion and teares, who gave him abſolution, upon condition he ſhould cauſe the Monaſtery of Boneface to be built, and endowed with an hundred and forty pounds of ſilver, of annuall rent; endow an Hoſpitall for the poore with foure hundred pounds ſilver per annum, and give a Prebendary in the great* Church *of Girone, for the maintenance of a Maſſe-prieſt*. About which time the (*d*) Moors in *Spain* erected *many new Kings and Kingdoms by mutuall conſent*, and *Mahumad Aben Alamar* for his valour, was by the Inhabitants of *Mariona, elected and made firſt King of Granado*.

(*c*) *Gen. hiſt. of Spain, l.* 11. *p.* 370.

(*d*) *Gen. hiſt. of Spain, l.* 11. *p.* 372. 408.

(*e*) *Anno* 1243. all was in combuſtion in *Portugall* by the negligence and baſeneſſe of their king *Don Sancho Capello*, who was wholly given to his wives humours, hated of the *Portugales*, and himſelfe diſliked for her ſake: for many Malefactors and inſolent perſons were ſupported by her, who grew daily more audacious in their exceſſe, without feare of Iuſtice, which was trodden under foot, for their reſpect. For theſe conſiderations, and her barrenneſſe too, all the Noblemen of the kingdome deſired to have the Queen (called *Menci*..) ſeparated and ſent out of *Portugall*: for effecting whereof, they made a great inſtance at *Rome*, but neither exhortation, admonition

(*e*) *Gen. hiſt. of Spain, l.* 11. *p.* 377, 378.

monition nor commandment, nor censure could prevaile, the king so doting on her, that he would not leave her: Which the *Portugals* perceiving, some of them presumed to seize on her in the City of *Coimbra*, and conducted her into *Gallicia*, from whence she never more returned into *Portugall*. Not content herewith, *they sought to depose the King from his Royall dignity too, for his ill government, and to advance his Brother* Don Alphonso *to the Regall Throne, in his place; whom the Estates assembled made Regent of* Portugall, *leaving only the Title of King to his brother;* which fact *of the Estates, the Pope in the Councell of Lions, authorized by his Apostolicke power: with which the King being displeased, abandoned his Realme, and retired into Castile.*

(f) Gen. Hist. of Spain, l. 11. p. 379.

(f) *Anno* 1247. The Lawes and Customes of *Arragon*, were *reduced into writing by King Iames his appointment, and compacted into one body, having till that time been observed onely by tradition: which Volume was confirmed by the Estates held at Huesca:* And the same yeere the King of *Castile* erected a kind of Chancery and standing Court of Parliament of 12. learned men, which followed the Court.

(g) Gen. hist. of Spain, l. 12 p. 385, 386, 387.

(g) *Anno* 1254. *Thibald* the 2. king of *Navarre* being but 15. yeers old at the descent of the crown unto him, *was at 25. yeers of age, declared of full age, and crowned King in the great church of Pampelone, where he did sweare*, TO PRESERVE AND AUGMENT THE PRIVILEDGES OF THE COVNTRY: Afterwards he doing homage to the king of *Castile* for the Realme of *Navarre*, as his predecessours had done before him, and making such a peace with him as the prelates, Knights and Commonalties of the Realme in the States had approved, yet divers knights and the Inhabitants of the *Borough of St. Iermin* of *Pampelone* disallowed this homage, this peace, and would not subscribe to it, as tending to the kings dishonour; whereupon the king did punish them by fines; but his choller being past, some few dayes after, considering they were good and faithfull subjects, loving his honour and greatnesse, and that they resisted his will out of true love and zeale which they owed to the Crowne and their Countrey, hee caused their Fines to be restored.

(b) Gen. hist. of Spain, l. 12. p. 390, 397.

(b) *Alphonso* the 3. fifth King of *Portugall* putting away his first wife *Mahault* without cause after he had children by her, and marrying *Beatrix*; hereupon when by no intreaties of Friends or the Pope he would entertaine his first wife again, he was excommunicated by the Pope, and his Realme interdicted 10. or 12. yeers space, continuing still obstinate till his first wife dyed, after which he was absolved.

(i) Gen. hist. of Spain, l. 12. p. 393. 400, 401.

(i) *Anno* 1260. and in some yeere following, there were divers controversies concerning the Crown Lands, and setling of Portions for the King of *Arragons* younger children, moved and determined in the *Assembly of the Estates of Arragon:* and the Nobility complaining, *that their King Iames did breake their priviledges, made many Leagues and Factions. This matter being debated in the Estates at* Saragossa, *and then at* Exea *in the yeare* 1265. *for pacifying these troubles they enacted, That no honours nor military fees should be given to any but to Gentlemen of race, and born in the Countrey. That no Gentleman should be subject to the tribute of Cattell, nor to any other. That in all controversies which the Nobility might have against the king or among themselves, the Magistrate called the Iustice Major of Arragon should be Iudge, being assisted by the Councell. That the King should not give the fees and Military rewards, allotted to them that doe him service, as a recompence of their vertue and valour, to any of his lawfull children, who by right have their portions in the Realme:*

Anno

Anno 1274. *Iames* King of *Arragon* comming to the Comcell of *Lions*, desirous there to be crowned by the hands of Pope *Gregory*; (a ceremony whereof he made great account:) the Pope refused him, *unlesse he would acknowledge himselfe vassall to the church of Rome, and pay the arrerages of the rent which the deceased King* Don Pedro *his Father had promised*: the which King *Iames* would not doe, *holding it an unworthy thing so to debase the greatnesse of his Crowne, and restraine the Liberty of his Realme in any sort.* And this yeare there were great and continuall Tumults in *Arragon, the Nobility opposing themselves against the King: for composing which differences the Estates of Arragon assembled in Parliament at Exea, where king* Iames *tooke the government and managing of the affaires of the Realme from his sonne* Don Pedro: *and diverse great Dons were there condemned of contumacy, and their Lands confiscated by the Iustice Major of* Arragon: In this Assembly *the Nobility pleaded the Priviledges of* Catteloyne; *That the Nobility might quit the Kings obedience in case of controversies and suites, especially if there were question of their Liberties, and to protest it publikely.*

(k) *Anno* 1265. *Denis* the infant King of *Portugall* desired his Grandfather *Alphonso* King of *Castile to discharge the Realm of Portugall of the homage and vassallage it ought to the King of Leon*, who thinking it would be taken ill by the Noblemen his Subjects, advised the infant to propound it in an open Assembly, called to that end. The opinion of *Don Nugno de Lara* was, that by *no meanes he should diminish the authority and greatnesse of his Crown, which he should doe, if he did quit this homage to the King of Portugall*: For which opinion the King growing angry with him, the residue fearing the kings displeasure, *advised him to doe it*: Whereupon the Realme of *Portugall* was freed from all homage and subjection due to the Kings of *Leon* and *Castile*: For which prodigality the other Nobles and *D. Nugno* were so much discontented, *that they made a Leagne with the King of Granado against their own King, for dismembring* Portugall *from the Crown of* Leon; *to pacifie which differences the King used many mediations, and at last called an Assembly of the Estates at Burgos, the which was held without the Towne for the safety of these Confederates.* (k) *Gen. Hist. of Spain, l. 12. p. 397, 398.*

That great Astronomer (l) *Alphonso* King of *Castile*, (who presumed to controule the Author of Nature, saying; *That if he had been at the Creation of the world, hee should in many things have been of another opinion, and amended Gods workmanship*;) was a most willfull, indiscreet, unfortunate Prince; for his eldest sonne *Fernand* dying in his life time, leaving *Alphonso* and other issue males behind him, *Don Sancho* his second son resolved to dispossesse his Nephews of the kingdom, saying; *That it was fit, that he who was a Knight, and learned to govern a Realme, were it in warre or peace, should raigne after his Father, rather then his Nephews, sons of his eldest brother who were very young, having need of Regents and Governours, charges which were affected by great personages, who by reason thereof grew into quarrels one with the other, to the oppression of the people, and hazzard of the Estate.* After which, *Don Lope Diaz of Haro* pressed the King to declare *Don Sancho* his sonne, his successour in the Realmes of *Castile, Toledo, Leon*, and other places, being his eldest sonne then living; to which he giving a cold answer at first, having afterwards assembled the Estates in *Segobia*, he was by the King *and the Estates consent declared and received as heire to the Crown after his Fathers decease, Fernands children being disinherited of their right*, which fact was then excused and justified, *because there was no law as that time which* (l) *Gen. Hist. of Spain, l. 12. p. 412. to 426.*

did binde the King, much leſſe the Eſtates, to leave the Realme more to one ſonne then to another: ſince which there was a law made and received in the time of *Fernand* the 5. in the City of *Taro*; where it was decreed by the Eſtates upon this difficulty, *That the Children of the elder brother deceaſed, repreſenting their fathers perſon, ſhould in that reſpect be preferred before the Uncle*: Hereupon Queen *Violant*, and *Blanche* widow to *Fernand* were ſo much diſcontented with the Decree of the Eſtates, diſinheriting the eldeſt brothers ſonnes, as taking the young children with them, they departed out of *Caſtile* to *Don Pedro* King of *Arragon*; where *Don Sancho* cauſed his Nephews to be impriſoned, whom king *Alphonſo* labouring under hand to get releaſed, *Don Sancho* advertiſed hereof, made a league with the *Moores* of *Granado*, againſt his Father, and by aſſent of his confederates took upon him the Title of Regency of the Kingdome of *Caſtile* and other his Fathers dominions, refuſing the Title of *King*, during his Fathers life time; who was forced to *pawn his royall Crown and Iewels to Iacob Abin Ioſeph* a Moore, King of *Morocco*, who aided him willingly againſt *Don* Sancho. After which in an Aſſembly of the States at *Cordova* with the adviſe of the Noble men and knights of *Caſtile* thereupon ſent, by a *Decree* pronounced by the mouth of *Don Manuel*, *in the name of the whole Nobility*, *Alphonſo was deprived of all his Realmes, for murthering his brother* Don Frederick, *and burning Don Rues unjuſtly without any forme of juſtice or orderly proceedings, the breach of the rights and priviledges of the Nobility, and the exceſſive waſting of the treaſure of the Realme*. Vpon this there arole bloody Warres between the Father and ſonne; and in the yeere 1282. *Alphonſo* was ſo vexed with his ſonnes proceedings, that hee pronounced in the preſence of many men of ranke both Clergie and Laity in the City of *Sevill*, *The curſe of God and his upon* Don Sancho, *a ſonne*, ſaid he, *diſobedient, rebellious, and a paricide, declaring him uncapable and unworthy to reign, depriving him of his ſucceſſions, inheritance, and diſcharging the ſubjects, as much as in him lay, from all oath and homage which they had done unto him*. But theſe were but words which *Don* Sancho did not much eſteem; enioying his Fathers kingdomes after his deceaſe in Title, as he did before in act, and dying king of *Caſtile*, his heires ſucceeded him in that Realme, as lawfull heires thereunto.

(m) Hieron. Blanca. Rer. Arragon. Comp. 660. Gen. Hiſt. of Spain, l. 12. p. 419, 421, 422.

(m) *Don Pedro* the third, king of *Arragon* about the yeare 1283. had many controverſies with his Nobles and knights who complained much of his ſower diſpoſition, and tyrannous manner of Government, inſulting over the greateſt, yea againſt his own blood, contrary to all Law and nature. Wherefore being ill intreated by him in their freedomes, whereof the Townes and Commonalties of his Countries did alſo complain, *the Nobility, Knights and Gentry, for preſervation of their Liberties made a Union together among themſelves and with the people; promiſing and ſwearing to let the King and his ſonne Don Alphonſo* (who was his Lieutenant Generall) *underſtand, that if they did not contain themſelves within the limits of the Lawes of the Country, they would withdraw themſelves from their obedience, and declare themſelves enemies, and purſue them by armes that ſhould ſeek to break them*. The king hereupon called the Eſtates to *Tarraſone*, and afterwards to *Saragoſſa*, where he intreated, promiſed and did all what he could to break this Vnion: but he *was forced to yeeld, and granted to the Arragonians the priviledge they call Generall, whereby their Liberties which had been ſomewhat reſtrained, were againe reſtored, the ancient manners of the Country, and cuſtomes of their anceſtours put in practiſe*. And moreover there were

were Laws made for their Kings, which they should be bound to obey; and for that they were in a mutiny in some places, by reason of certain Impositions *laid upon salt, the traffique thereof was made free by the Estates.* And the king refusing the judgment of the *Iustice Maior* of *Arragon*, deposing *Pedro Martines Artassone* (who then exercised it) from his Office, the Estates soon after at an assembly at *Zutaria*, fortified it with stronger Laws, deeming the Iustice of *Arragon* to be *a lawfull Iudge, (whom the King himself could not displace) even in Cases commenced against the King; who being cited and not appearing, there were Decrees made against him in many instances.* In the end the King confirmed the Decrees of the *Iustice Maior*, and whatsoever should be concluded by the *Estates, the Deputies and Councellors having given their suffrages.*

I read in * *Hieronimus Blanca*, that about the year 1212. the *Arragonians taking it ill that their Liberties gotten with their blood, should so many wayes be subverted, as then they were by King* Pedro *the first, raised up the Name and forces of a Vnion, that with one force, and the consent of all, one mixde as it were being made out of all, they might more easily propulse so great injuries*; but what was then done hereupon, is not recorded; But the two memorable Priviledges of the Vnion under King *Alphonso* the third, are said to spring from thence.

* *Rerum Arragonens. Comment. in Pet. 2. p. 650.*

Don Alphonso (*n*) king of *Aragon* succeeding *Pedro*, *Anno* 1286. he was admonished by the Estates Ambassadours, to *come speedily to the Assembly at Saragossa*; where having *sworn and promised the observation of the Customs, Rights and Priviledges of the Countrey, and received the Oath of fealty from the Deputies, he might lawfully take upon him the Title of the King of* Aragon; *the which they said, he might not use before this Act and Ceremony, according to the ancient customs of* Aragon. Vpon these summons he came to the Assembly of the Estates to *Saragossa*, took the Oath aforesaid, after which he was Crowned: Which done there grew in this assembly a great contention, *touching the reformation of the manners of Courtiers, and the ordering of the Kings house*; the Noblemen and Deputies of the Estates of *Aragon* maintaining; *that the conusance thereof was incident to their charge; the King, and his household servants on the other side, denied, that there was either Law or custom which tyed the King or his followers to any such subjection.* In the end it was concluded, that the reformation of the Court should be made by twelve of the principall Families, the like number of Knights, four Deputies of *Saragossa*, and one of either of the other Cities, the which should give their voices in that case. This Vnion of *Aragon* obtained likewise a Decree, that *the King should have certain Counsellors chosen, to wit, four of the chief Nobility, four Knights of noble and ancient races; four of his household servants, two Knights for the Realm of* Valencia, *two Citizens of* Saragossa, *and one of either of the other Cities (whom they particularly name) with a condition, that whilest the King should remain in* Aragon, Ribagorca, *or* Valencia, *two of those Noblemen, two of his servants, two Knights of* Aragon, *one of* Valencia, *and the four Deputies of the Realm of* Aragon, *should follow and reside in his Court, AS COVNCELLORS APPOINTED BY THE VNION; who protested by solemn Deputies sent to the King to that end, that if he did not receive, observe, and maintain those orders, THEY WOVLD SEIZE VPON ALL HIS REVENVES, and on all the fees, Offices, and dignities of such Noblemen as should contradict them.* Thus were the Kings of *Aragon* intreated in those times by their subjects, who

(*n*) *Gen. Hist. of Spain, l. 13. p. 431. Hyeron. Blanca Arrag. Rerum Com. in Appb. 3. p. 661, 662.*

entred into a Union between themselves, resolving, *That for the common cause of liberty Non verbis solum, SED ARMIS CONTENDERE LICERET; that it was lawfull for them to contend not onely with words,* BVT WITH ARMS TO; *and determined in this assembly of the States, A Comitijs intempestive discedere* REGI NEFAS ESSE, *That it was unlawfull (yea, a grand offence) for the king to depart unseasonably from his Parliament, before it was determined.* Our present case.

(o) Gen. Hist. of Spain, l. 13. p. 436, 465.

(o) *Iames* the second of *Aragon* being in *Sicily* at the death of King *Alphonso*, *Don Pedro* his brother assembled the Estates at *Saragossa*, to consult, lest the State in his absence would receive some prejudice; where *James* arriving, *having first sworn and promised the observation of the Rights and Priviledges of the Countrie*, was received and crowned king. About the year 1320 *Iames*, by advice of his Estates held at *Tarragone*, made a perpetuall Vnion of the Realms of *Arragon* and *Valencia*, and the Principalty of *Catelone*, the which from that time should not for any occasion be disunited. In which assembly *Don Iames* eldest son to the Crown, being ready to marry *Leonora* of *Castile*, suddenly, by a strange affection, quitting both his wife and succession to the Realm of *Arragon*, told his Father, *That he had made a vow neither to marry, nor to reign; so as notwithstanding all perswasions of the King and Noblemen, he quit his Birth-right to his Brother* Don Alphonso, *after the example of* Esau: *discharged the Estates of the Oath they had made unto him, and presently put on the habite of the Knights of* Ierusalem; Whereupon his second brother, *was by the Estates of* Arragon *acknowledged and sworn heir of these Kingdoms, after the decease of his father.* At this time the Authority of the *Iustice of Aragon* was so great, *That it might both censure the King, and the Estates, and appoint them a place, and admit them that did assist, or reject them.*

(p) Gen. Hist. of Spain, l. 13. p. 440. to 476.

(p) *Ferdinand* the fourth, king of *Castile*, being but a childe when his father *Sancho* died, was in ward to his mother Queen *Mary*, his Protectresse; he had two competitors to the Crown, *Alphonso de la Cede*, and *Don Iohn*, who making a strong confederacy, were both crowned Kings, against right, by severall parts of his Realm, which they shared between them. The States assembled at *Zamora* granted great sums of money to *Ferdinand* to maintain the wars with his enemies, and procure a dispensation of Legitimation and marriage from the *Pope*, who would do nothing without great fees. After which he summoning an assembly of the Estates at *Medina, they refused to meet without the expresse command of the Queen Mother*, who commanded them to assemble, and promised to be present. After this divers accords were made twixt him and his competitors; and at last calling an assembly of the Estates to assist him in his warres against the *Moors*; he soon after condemned two Knights, called *Peter* and *Iohn* of *Caravajal*, without any great proofs, for a murther, and caused them to be cast down headlong from the top of the Rock of *Martos*; who professing their innocency at the execution, they adjourned the king to appear at the Tribunall Seat of Almighty God within thirty dayes after, to answer for their unjust deaths; who thereupon fell sick and died, leaving his son *Alphonso* the 12. very young; for whose Regency there being great competition, the inhabitants of *Avila*, and their Bishop resolved, *not to give the possession and government of the Kings person to any one, that was not appointed by the assembly of the Estates; Whereupon the Estates assembling at* Palence, *committed the government of his person to* Q. Mary *his Grandmother and Queen* Constance *his mother; who dying, another Assembly of the*

the Estates was called at Burgos, Anno 1314. *who decreed, that the Government of the King, and Regencie of the Realme should be reduced all into one body betwixt Q.* Mary, Don Pedro, *and* Don Iohn, *and if any one of them should dye, it should remain to the two other that did survive, and to one if two dyed.* After this, *Anno* 1315. *these Tutors and Governours of the Realme of Castile were required by the Estates in an Assembly at Carrion to give caution for their government, and to give an account what they had done.* Who often jarring and crossing one another; divers Assemblies of Estates were oft called to accord them. *Anno* 1320. *The Estates assembling, appointed new Governours of the King and Realme, who discharging their trust very lewdely and oppressing the People, Anno* 1326. *they were discharged of their Administration at a Parliament held at* Vailledolet: in which the king did sweare, *to observe the fundamentall Lawes of the Realme, and to administer justice, maintaining every one in his Estate. goods and honour: Which done, the Deputies of the Estates swore him Fealty.* (q) This King afterwards proving very cruell and tyrannicall, his Nobles and Subjects *oft times successively took up defensive armes against him, his Tyranny augmenting their obstinacy, and procuring him still new troubles*; Whereupon at last discerning his errours, he became more mild, and often assembled the Estates in Parliament, who gave him large Subsidies to maintain his warres against the Moores. (r) The Province of *Alava* had a custome to *chuse a Lord under the Soveraignty of Castile, who did govern and enjoy the revenues appointed by the Lords of the Countrey; for the election of whom they were accustomed to assemble in the Field of* Arriaga; *those of this Election being called Brethren, and the Assembly of the Brotherhood.* Notwithstanding in the yeer 1332. the Brotherhood and Estates of this Province sent to K. *Alphonso* divers Articles, which they beseeched him to confirme, promising for their part, that this should be their last Assembly, and that the name and effect of their Brotherhood should remain for ever extinct, and the Province be for ever united to the Crown of *Castile*, if he would confirme those Articles to them, being 17. in number, which he did. The chiefe were these, *That the King nor his Successors should not alien any place of his Demesnes. That the Gentlemen and their goods should be free and exempt from all Subsidies as they had been heretofore. That they and others of the Countrey should be governed according to the customes and rights of Soportilla*; *And that divers Townes and Villages therein specified should be free from all Tributes and Impositions.*

(q) *Gen Hist. of Spain, l.* 13. & 14. *passim.*

(r) *Gen Hist of Spain, l.* 14. *p.* 487, 488, 489.

(*s*) About the yeer 1309. *Mahumet* King of *Granado*, becomming casually blind, was soon after *deposed by his own Brother, and the great men of his Realme*, who were discontented and *disliked to be governed by a blind King, who could not lead them to the warres in person.* Which Kingdome went by Election commonly, as is evident by his three next successours, and *Mahumet* the sixth King of *Granado*.

(*s*) *Gen. Hist. of Spain, l.* 13. *p.* 455. 460, 472.

(*t*) *Anno* 1307. *Lewes Hutin* was crowned King of *Navarre* at *Pampelone*, where he sware, *to observe the Lawes and Rights of the Realme.* After which, *Anno* 1315. *Philip* the long was elected by the Estates of *Navarre* to be their king in right of his wife, but it was upon conditions drawn in writing which they tendered to him and the Queen to subscribe and sweare to, before the solemnities of their Coronation, in the Estates assembled at *Pampelone*, which they yeelded willingly unto; whereof the principall Articles were these:

(*t*) *Gen. Hist. of Spain, l.* 13. *p.* 452. 462. *l.* 14 *p.* 477 & 478.

1. First, to the Estates to maintain and keep the Rights, Lawes, Customes, Liberties,

berties, and priviledges of the Realme, both written and not written, whereof they were in possession, to them and their successours for ever, and not to diminish, but rather augment them.

2. That they should disannull all that had been done to the preiudice thereof by the kings their Predecessors, and by their Ministers, without delay, notwithstanding any Ler.

3. That for the tearme of 12. yeares to come they should not coyne any money, but such as was then currant within the Realme, and that during their lives they should not coyne above one sort of money, and that they should distribute part of the revenues, profits and commodities of the Realme unto the Subiects.

4. That they should not receive into their service above foure strangers, but should imploy them of the Countrey.

5. That the Forts and Garrison of the Realme should be given unto Gentlemen borne and dwelling in the Countrey, and not to any stranger, who should do homage to the Queen, and promise for to hold them for her, and for the lawfull Heire of the Countrey.

6. That they should not exchange, nor engage the Realme for any other Estate whatsoever.

7. That they should not sell nor engage any of the Revenues of the Crowne, neither should make any Law nor Statute against the Realme, nor against them that should lawfully succeed therein.

8. That to the first sonne which God should give them, comming to the age of twenty yeares, they should leave the kingdome free and without factions, upon condition, that the Estates should pay unto them for their expences an hundred thousand Sanchets, or other French money equivalent.

9. That if God gave them no children, in that case they should leave the Realme after them free, with the Forts, in the hands of the Estates, to invest them to whom of right it should belong.

10. That if they infringe these Articles or any part of them, the Subiects should be quit of their Oath of subiection which they ought them.

These Articles being promised and sworne by the king and Queen, they were solemnly crowned, and the Deputies of the Estates, Noblemen and Officers of the Crown took their obedience to them. (r) Vpon this agreement, *all the Castles and places of strength in Navarre were put into the hands of the Estates*, who committed them unto the custody of faithfull knights, in whose keeping they continued; a Catalogue of which Castles with the names of the knights that guarded them, by the Estates appointment, in the yeare 1335. you may read at large in the *Generall History of Spaine*.

(v) *Gen. hist. of Spain, l. 14. p. 497, 498.*

(x) *Gen. hist. of Spain, l. 14. p. 476.*

Before this (x) *Anno* 1328. the Estates of *Navarre* assembled at *Puente la Reyna*, to resolve without any respect, *TO WHOM THE REALM OF NAVARRE BELONGED*, whether to *Edward* king of *England*, or to *Iane* Countesse of *Eureux*. The Estates being adjourned to *Pampelone*, the chief Town of the Realme, their opinions were divers; many holding that king *Edward* should have the Realm, as *Granchilde* (born of the daughter) to Queen *Iane*, daughter to King *Henry*, rather then the Countesse of *Eureux*, in regard of the Sex; others, with more reason, held for the Countesse, who was in the same degree, but daughter to a Son, and Heir

to

to Queen *Iane*. These prevailed, drawing the rest to their opinion; whereupon the Countesse was declared true and lawfull Queen of *Navarre*, the Realm having been vacant above four Moneths. And untill that she and Count *Philip* her husband should come and take possession of the Realm, they declared the Regent and Viceroy *Don Iohn Corberan* of *Leet*, Standard-bearer of the Realm, and *Iohn Martines* of *Medrado*. Lo here a Parliament of the Estates of *Navarre*, summoned by themselves, without a King, determining the Right of succession to the Crown, appointing a Vicegerent, and prescribing such an Oath and Articles to their king, as you heard before.

(y) *Anno* 1331. king *Philip* of *Navarre*, to administer justice, erected a new Court of Parliament in *Navarre*, which was called *New*, to distinguish it from the old; *HE AND THE THREE ESTATES* of the Realm *NAMING MEN WORTHY OF THAT CHARGE*. Queen *Iane* and *Philip* deceasing, their son *Charles* the second, surnamed the *Bad*, for his crueltie and ill manners, was called by the three Estates of *Navarre* to *Pampelone*, and there crowned in their Assembly after the manner of his Ancestors, *swearing to observe the Lawes and Liberties of the Country*. After which a far * *stretter Oath* was administred to *Charles* the 3, *An.* 1350.

(y) *Gen. Hist. of Spain, l. 14. p. 479. & 15. p. 539.*

(z) *Anno* 1325. In a generall assembly of all the Estates of *Arragon*, *Don Pedro* son to the Infant *Don Alphonso*, was sworn presumptive Heir and Successor to the Crown, after the decease of his Grandfather and Father, the which was there decreed and practised, for that *Don Pedro* Earl of *Ribagorca* did maintain, that if his brother *Don Alphonso* should die before their Father, the Realm did belong to him by right of propriety, being the third brother, rather then to his Nephew the son of the second brother. In this Assembly the Articles of the generall priviledges were confirmed, and it was ordained for a Law, *That no Freeman should be put to the Racke, and that confiscations should not be allowed, but in Cases of Coyning and High Treason.*

* Which you may read at large, *Gen hist. of Spaine, l. 17. p. 625 626.*

(z) *Gen. Hist. of Spain, l. 14. p. 480.*

(a) *Anno* 1328. *Alphonso* King of *Castile*, treacherously murthering *Don Iohn* the blinde, his Kinsman, in his own Court, when he had invited him to dinner on all Saints day, and then condemning him for a Traitor, confiscating his lands (a fact unseemly for a King, who should be the mirrour of Iustice:) Hereupon *Don Iohn Manuell* stood upon his Guard, fortified his Castles, revolted from the King for this his Treachery, allyed himself with the Kings of *Arragon* and *Granado*, overran the Countries of *Castile*, from *Almanca* unto *Peguafield*; the Prior of Saint *Iohns*, *Don Fernand Rodrigues*, hereupon caused the Cities of *Toro*, *Zamora*, and *Vailledolit*, to rebell and shut their gates against the King; and many others likewise revolted from him: At last he was forced to call an Assembly of the Estates, who gave him Subsidies to ayde him in his wars against the *Moors*) and to conclude a peace with *Don Manuel* and his other discontented Subjects; whom he afterwards spoiling of their lawfull inheritances, and pursuing them in their honours and lives by Tyrannous crueltie, extending his outragious disdain even to women of his own blood, he thereby so estranged most of his Princes and Nobles from him, that they revolted from him, and joyned with *Mahumet* king of *Granado*, and the *Moors* in a warre against him, which lasted three or four yeers, putting him to infinite trouble, vexations and expences, enforcing him to make a dishonourable peace with the *Moors*, to release the Tribute which they payed him formerly; and after much mediation he concluded a Peace thorowout all the Realm with his discontented Subjects. This Prince think-

(a) *Gen Hist. of Spain, l. 14. p. 483, 484, 485 486, 493. to 498 504. Dr Beards Theatre of Gods Iudgements. Mariana and others.*

ing to raign more securely, had taken a course of extream severity, shewing himself cruell and treacherous to his Nobility, whereby he was feared, but withall he lost the love and respect of his subjects, so as he was no sooner freed from one danger, but he fell into another worse then the first, his Nobles holding this for a Maxime, That a Tyrant being offended will at some time revenge himself, and therefore they must not trust him upon any reconciliation, who to pacifie the troubles which had grown by his own errour, had made no difficulty to sacrifice (upon the peoples spleen) his own Mignions, degrading, and in the end murthering, condemning them as Traitors after their death, yea, the *Princes* of his own blood, taking their goods, estates, and depriving the lawfull Heirs, seeking to reign over free men, and generous Spirits as over beasts, entreating them as base and effeminate slaves, who might not speak their opinions freely in matters of State and Government, of which they were held dead members and without feeling. Whereupon *D. Manuel* and other Nobles, as men endued with understanding, reason, and not forgetting the nature of *Alphonso*, who was proud, a contemner of all laws, and treacherous, they proceeded so farre as to withdraw themselves from his subjection by protestation and publike act, and entred into a league with the King of *Portugall*, incensing him to take up Arms for their defence: Where upon King *Alphonso* having some feeling, that cruelty was too violent remedy for men that were Nobly borne, he sought by all milde and courteous meanes to divide them, and to draw some of them to his service, which he effected, and so more easily conquered, and reduced their companions.

(b) *Gen. Hist of Spain, l. 14. p. 506.*

(b) *An.* 1337. was founded the Town of *Alegria* of *Dulanci*, in the Province of *Alava*, and many Villages thereabout, the which obtained from the King the priviledges and Lawes of the Realm, whereby the inhabitants should govern themselves, with libertie to chuse their own Judges.

(c) *Gen. Hist. of Spain, l. 15. p. 532 to 576.*

(c) *Don Pedro* the first, king of *Castile*, surnamed the cruell, most tyrannically murthering and poysoning divers of his Nobles and subjects without cause, banishing others, quitting *Blanch* his espoused wife within three dayes after his marriage, to enjoy the unchaste love of *Donna Maria de Padilla*, by whom hee was inchanted, which much troubled the whole Court; divorcing himselfe without colour, by the advice onely of two Bishops, without the *Popes* assent, from *Blanch*, and marrying *Jane* of *Castro* in her life time; Hanging up divers Burgesses of *Toledo* causlesly, for taking the Queens part too openly, and among others a Goldsmiths sonne, who offred to be hanged to save his fathers life; causing his own brother *Don Frederick*, and divers Nobles else to be suddenly slain, *Anno* 1358. poysoning and murdering likewise divers Noble Ladies, among others *Don Leonora* his own Aunt; after which *Anno* 1360. he murthering two more of his own brethren, executing divers Clergy men, and Knights of Castile, banishing the Archbishop of *Toledo*, putting divers Jews (as *Samuel Levy* his High Treasurer, with his whole family) to death, to gain their Estates, and causing his own Queen *Blanch* to be poysoned, after she had long been kept prisoner by him. *Anno* 1361. Hereupon his cruelties, rapines and murders growing excessive, and the *Popes* Legat denouncing him an utter Enemy to God and man, *Henry* Earle of *Transtamara*, his brother, with other Fugitives getting ayde from the King of *Navarre*, entred *Castile* with an Army, where by the Nobles importunity he tooke upon him the title of King of Castile and *Leon*; which done, the whole Kingdom (long oppressed with *D. Pedro* his Tyranny) immediately

diately revolted from him, so that in few dayes *Henry* found himselfe King of a mighty great Kingdom, almost without striking stroke, the people striving who should first receive him, such was their hatred to the Tyrant *Pedro:* who being doubtfull what to doe, fled with two and twenty Ships out of his Realme to *Bayon*, craving ayde of the English to reveſt him in his Kingdom; mean time king *Henry* assembling the Estates at *Burgon*, they granted him the tenth penny of all the Merchandize they should sell in the Realm, to maintaine the warres against *Pedro*; who getting ayde from the English upon conditions, accompanied with the valiant Black *Prince of *Wales*, entred with a great Army into *Spain*, where the Prince writing to *Henry*, voluntarily to resign the Crown to *Pedro* his Brother, to avoyd the effusion of Christian blood; he made answer, *That he could not hearken to any accord with him, who had against the law of nature taken delight to murther so many of the blood Royall and other great personages of* Castile, *who had no respect of the Lawes of the Countrey, and much lesse of God, falsifying his Oathes and promises, having no other rule in his actions, but his Tyrannous passions.* Whereupon, battell being joyned, *Henry* was conquered, and *Pedro* restored; But hee discontenting the English and others, who had reseated him in his Kingdome, by his insolency and Tyranny, and the *Biscaniers* refusing to be under the command of strangers, whom they would never consent to be put in possession of their Countrey; and withall falling to his former cruelties, and courses contrary to the advice of his friends and Astrologers; he so estranged the hearts of all from him, that the English returning, and *Henry* receiving new forces from the French, entred *Castile*, suddenly, and conquered the Tyrant; who being betrayed into King *Henry* his hands as hee was taking his flight by night, King *Henry* stabbed him with dagger in the face, and at last getting him under him, slew him with his dagger for his excesse and tyranny, *Anno* 1368. and raigned quietly in his steed.

* See Mr. Seldens Titles of Honour, part 1 chap. 3. pag. 165. to 171.

I might prosecute and draw down the Histories of all the Spanish Kings and Kingdomes from his dayes till this present, which are full fraught with presidents of this nature, to prove all the Kings of *Spaine* inferiour to their Kingdomes, Assemblies of the Estates, Lawes, resistible, deprivable for their Tyrannyes; but because those who desire satisfaction in this kinde, may read the Histories themselves more largely in the *generall History of Spain*, in *Joannis Pistorius*, his *Hispaniæ Illustratæ*, (where all their chiefe Historians are collected into severall volumnes:) and in *Meteranus* and *Grimstons* Histories of the *Netherlands*: I shall for brevity sake pretermit them altogether, concluding with one or two briefe observations more touching the *Gothish* and *Arragonian* Kings in *Spaine*, which will give great light and confirmation to the premises.

(b) Lib. 2. c. 6. lib. 5. c. 35.
(c) De rebell. & pass. l. 1. c. 3. sect. 11. p. 8.
(d) Vandal. 1. Grotius, ibid.
(e) Procop. ius Goth. 2.
(f) Excerpt. Dionis, & Grotius. De iure Belli. l. 1. c. 3. Ad rutata sect. 11. p. 72.
(g) Italus Wurmsfeld l. 1. & 6.
(b) Ammianus lib. 28. Lonicerus Chalcocondiles
(i) Ioan. Cantacuz. l. 7
(k) Generall History of Spain l. 7. & 20. passim.
(m) Solinus l. 1. Grotius de iure Belli c. 3. sect. 4. p. 57
(n) Tacitus de mor. Germ. Grotius ibid. Dionis. Halic. &c.

First, for the Antient Kings of the *Gothes* in *Spain*, (b) *Aimoinius*, (c) *and Hugo Grotius* out of him, confesse; that they received the Kingdom from the people, revocable by them at any time; and that the people might depose them as often as they displeased them; and therefore their acts might be rescinded and nulled by the people who gave them only a revocable power: which the premised Histories experimentally evidence: such likewise were the Kings of the *Vandales*, removable at the peoples pleasure as *Procopius* writes: such the Kings of the (e) *Heruli*, (f) *Quadi*, *Iazyges*, (g) *Lombardes*, (h) *Burgundians* (i) *Moldavians*, (k) *Africans*, the (l) *Moores in Spaine*, the (m) *two annuall Kings of Carthage*, the (n) antient *Germane Kings the Kings of Sparta; and most other Kings of Greece*, as Historians and Authors of best credite relate.

Secondly, for the Kings of *Arragon*, and originall constitution of the Kingdom, I find this memorable passage in *Hieronymus Blanca* his *Rerum Arragonensium Commentarius*, *pag.* 586. 587. 590. & 722. 724. in the third Tom. of *Ioannis Pistorius* his *Hispaniæ illustratæ*, 'Sancho the fourth King of *Arragon* dying without issue, the Estates and 'people advising together what course they should take for their security and future 'good administration of the Common-weale, about the year of our Lord, 842. elected 'twelve principall men to whom they committed the care and government of the 'Republike during the *Inter-regnum*. These because they were very ancient men, 'were called Elders, from whence those who by birth are stiled Rici-men, drew their 'originall; And this manner of governing the Common-wealth continued long: 'But the great incursions of the *Arabians* pressing them, they imagined it would not 'continue firme and stable: Yet notwithstanding, taken with the sweetnesse of Liberty, 'they feared to subject themselves to the Empire of one man; because verily they be-'leeved that servitude would proceed from thence. Therefore having considered and 'rightly pondered all things, and reasons, they made this the result of all their Coun-'sels; that they should consult with Pope *Adrian* the second, and the *Lombards*; 'what course they should take by their advise, which should be most meet for the per-'petuating of the Empire: to whom, as reports goe, they returned this answer. That 'preordaining certaine Rights and Lawes, ratified with the previous religion of 'a cautionary oath, they should set up one King over them; but yet should reject a 'forraign Dominion; and that they should take heed, that he whom they adopted to 'be King, should be neither of the superiours, nor inferiours; lest, if superiour he should 'oppresse inferiours, or lest, if inferiour, hee should be derided by superiours; To 'which counsell and sentence they submitting, founded that ancient Suprarbian 'Court: For according to the answer given, all decreed, That they ought to elect one 'man excelling in vertue for their King; But yet, lest the pleasures of Kings, like 'as in other Princes, should likewise even among us become Lawes, they first of all 'enacted some Lawes by which they might heale this inconvenience. These Lawes 'they afterward called the Suprarbian Court, which we should largely prosecute, but 'through the injury of time, the knowledge of them is buried, and some fragments of 'them only are extant, observed by Prince *Charles* himselfe, and some other 'Writers, which we shall verily remember; because they are as the first elements of 'our Republike, and containe in them, the institution of the Magistrate of the *Justice of* '*Arragon*, which is the chiefe thing of our institution; therefore in the beginning of 'that Court it was provided, that the King which should be, since the Kingdom, lately 'taken from the *Moores*, was freely and voluntarily conferred on him, should be 'bound both by the Religion of an Oath, as likewise by the force and power of 'Lawes, to observe the Lawes and Liberties of the Kingdom; Now the Lawes were 'these,

Governe thou the Kingdome in peace and righteousnesse, and give us better Courts of justice.

The things which shall bee gained from the Moores, *let them be devided not only between the Rici-men, but likewise between the souldiers and infantry; but let a stranger receive nothing from thence.*

Let it bee unlawfull (or a wicked act) for the King to enact Lawes, unlesse it be by the advice of his Subjects first given.

Let

Let the King beware, that he begin no Warre, that he enter into no Peace, conclude no Truce, or handle any other thing of great moment, without the concurring assent of the Elders.

Now lest that our Lawes or Liberties should suffer any detriment, Let there be a certain middle Judge at hand, to whom it may be lawfull to appeal from the King, if he shall wrong any one, and who may repell injuries, if peradventure he shall offer any to the Commonweale.

, With these Lawes therefore and sanctions, those our Ancestors confirmed the en-
, terprise of new moulding and reforming the Common-wealth : But verily this was
, the chiefest garison for to retaine their liberty, whereby they ordained the *Presidents-*
, ship of a middle Iudge; placing the power in such sort in the King, that the tem-
, perating of it should be in the middle Iudge : out of which things, the moderate and
, musicall state of the Common-weale which we enjoy, is moulded and made up. For
, from the very beginning of things even to these later times, wee see by force of this
, intermediate Magistrate, and by the goodnesse and clemency of most peaceable
, Kings, that both our pristine liberty, and ancient Priviledge hath been alwayes re-
, tained, and due loyalty and reverence to the Kings Majesty, observed : Neither hath
, the Kingdome onely emplored the help of this Magistrate against Kings, but the
, Kings themselves oft-times against the Kingdome; by which meanes, many intestine
, evils have been appeased without any tumult, which unlesse they had been civilly
, suppressed, seemed verily to have been likely to have broken out to the common de-
, struction of all men; so as we may rightly affirm, that in this alone, the summe of pre-
, serving civill concord both to Kings and the Kingdome hath consisted. This Magi-
, strate was at first called THE IUSTICE MAIOR; afterwards assuming
, the name of the Kingdome it selfe, it was called THE IUSTICE OF
, ARAGON : By these (formentioned) prescribed Lawes, the will of him who
, desired to be King of *Aragon*, was wholy to bee directed and formed; and unlesse
, he would first suffer his faith to bee obliged in most strick bonds for keeping of
, them, any future soliciting was to be prepostorous. Having therefore laid the foun-
, dations of their Countreys liberty, all of them began to dispute among themselves
, about electing a King : to which end, they all assembled together at *Arahvest* to
, chuse a King; where they were suddenly besieged by the *Arabians*: which *Iunicus Ari-*
, *sta* King of the *Pompelonians* hearing of, came with an Army and rescued them;
, whereupon they elected him for their King with unanimous consent, and calling
, him unto them, shewed him the Lawes they had pre-established; one whereof, con-
, cerning the middle Magistrate, seemed most hard unto him : But having more deli-
, gently considered the matter, and that they voluntarily offered him the Kingdome
, gained from the enemies; Hee not only ratified the Lawes themselves, but likewise
, added this new Law, or priviledge to them : * *That if the Kingdome should happen hereafter to bee oppressed by him against the* LAWES, *(Iustice) or Liberties, the Kingdome it selfe should have free liberty to elect another King, whether a Christian or an Infidell*; which clause of an Infidell King, they refused to have be-
, stowed on them, because they judged it shamefull and dishonourable : After which
, *Iunicus* taking an oath to observe the former Lawes, was advanced to the Throne
, and made King of *Aragon* about the year 868. Moreover, to establish all these
, Lawes and Constitutions, our Ancestors themselves adjoyned the accession of a
, publike

* *si contra foras libertates regnum a se provisum in futurum contingeret, alium sibi fidelem, sui iuris facere Regem ad sententiam suam Regno advocatis, pateat.*

, publike Vnion; ordaining, that it ſhould be lawfull and juſt for them, to meet all , together, ET REGI OBSISTERE ARMIS ET VI, and to reſiſt the King , with armes and force, as oft as there ſhould be need to propulſe any aſſault of him , or his, made againſt the Lawes; which form of aſſembling together for the com- , mon cauſe of liberty, they called a Vnion, (or Aſſociation:) Neither did they ancient- , ly leſſe think all their Liberties to be preſerved by this Vnion, then humane bodies , themſelvs are by nervs and bones. And although it were not preſcribed in that Su- , prarbian Forum, yet they thought it deduced from the very beginnings of things, , and deeply fixed and impreſſed in the ſenſe of all men, and to be eſtabliſhed by our , common Law, as by another Law of Nature, and that its force was enough and , more then ſufficiently known and diſcerned by uſe and reaſon. For they ſaid, *it , would be but a thing of little profit for them, to have good Lawes enacted, and the , very Iudiciary Preſidentſhip of a middle Iudge, if when there ſhould be need, AD EA- , RVM DEFENSIONEM ARMA CAPERE NON LICERET, cum , jam tunc ſatis non eſſet pugnare conſiliis; it ſhould not be lawfull for them to take up , Armes in their defence, when as then it would not be ſufficient in ſuch a caſe to fight , with Counſells.*

Neither verily did that ſeem altogether impertinent from the matter, for if it ſhould be , ſo, all things long ere this had been in the power of Kings themſelves. Whence our , people reputed theſe two priviledges of the Union obtained from *Alphonſo* the 3. , (to wit, (r) *That it ſhalbe lawfull for the Eſtates of the Realm, if the King ſhall violate , the Lawes of the Countrey*, **To create a new King in his place; and without the , crime of Treaſon,** *to make confederacies among themſelves, and with Neighbour , Princes* **To defend their Liberty**; which King *Ferdinand*, upon the petition of the , *Caſtilians*, refuſed to revoke, *becauſe he had taken a ſolemn Oath to obſerve them.*) , not as new favours or benefits, but as things done out of Office, &c. Therefore in , thoſe ancient Rulers of which we treat, the Liberty of our Country was hedged a- , bout by our Anceſtors with three moſt ſtrong fences; namely, with the Prefecture , of this middle Iudge, with the moſt ample power of the *Rici-men* (or *Palatines*) and , with this moſt fierce force of the Vnion; of which the firſt ſeemed to be Legal and ci- , vill; the other domeſticall and of greateſt moment; the laſt warlike and popular. , Neither ought it then to be incloſed with a leſſer hedge, that ſo we might rejoyce, that , it hath therby come ſafe & ſound to us now. But of theſe garriſons or fences the anci- , ent inventers of them, and thoſe who next ſucceeded them, conferred more aſſiſtance , and labour upon the two laſt, namely the domeſtick and popular, then on that Court , preſidentſhip: For they would alwayes retain in themſelves a power of moderating , and governing the moſt looſe reines of the Royall Dignity, which they might re- , ſtrain or enlarge as there was need. (f) Therfore they aſſigned thoſe 12 elders to him , elected out of the greateſt men, by whoſe Counſels the Kings ought to be hedged in , on every ſide: the place of which Elders, the *Rici-men* afterwards poſſeſſed; who , were the chiefe of our Nobles; who in times paſt were ſecond to the Kings in ſuch , ſort, that they might ſeem to be their Peers and Companions Theſe called that pub- , like union to the ayde of Liberty, and out of them were choſen thoſe who ſhould al- , wayes be the prime and principall conſervators of it: for thus they called the preſi- , dents of the Vnion. Finally, they ſuſtained on their necks all the Offices and bur- , dens of peace and warre, if not with the ſame power as the Kings, yet I may truly , ſay

(r) *See Iohannis de Laet Hiſtor. Deſcr. p. 1. c. 5. p. 107.*

(f) *Pag. 664, 665, 667, 7. 6, to 812.*

, say with very little lesse; for the *Rici-men*, as long as they flourished, relying on the , Forces of the Vnion, did alwayes hover over the Royall Empire, and by the intire , power of their offices, if the violence or assaults of Kings were unjust, did from in- , ordinate reduce them into order, and as it were into a circle of Law and Iustice. In , which thing verily their grave censorious and domesticall authority had sufficient , right and moment with our ancient Kings, who were well mannered: but if perad- , venture they could not with their fitting counsels bridle the exulting royall For- , ces, they did constantly repell them from their necks with the force of the raised V- , nion. Thus and much more this Spanish Author, in whom you may read at large , the *Power and Authority of the Iustice of Arragon, of the Generall Assembly of the* , *Estates or Parliaments of that Kingdom, of their Rici men, Peeres, Magistrates,* , *Councellors, and in Ioannis de Laet. his Descriptio Hispania, cap.* 5. cite, *Ioannis* , *Mari.* and *De Rebus Hisp. l.* 8. *c.* 1. *& Gen. hist. of Spain, l.* 17. *p.* 618.

To which I shall onely adde this most notable custome and ceremony used at the Coronation of the Kings of *Arragon*, recorded *(q)* by *Iunius Brutus*, *(r)* *Franciscus Hotomanus*, and others. The *Arragonians* when as they create and crown , their King in the Assembly of the Estates (or Parliament) of *Arragon*, to put the , King in mind, that the Lawes, the Iustice of *Arragon*, and Assembly of Estates are , above him, act a kind of *Play* that he may remember it the better: they bring in a , man on whom they impose the name of the *Iustice of Arragon*, whom by the com- , mon Decree of the people, *they enact to be greater and more powerfull then the King*: , to whom, sitting in an higher place, *they make the King doe homage*; and then ha- , ving created the King upon certain Lawes and conditions, they speake unto him in , these words, which shew the Excellent and singular fortitude of that Nation in , bridling their Kings: *NOS QVI VALEMOS TANTO COME VOS, Y* , *PODEMOS MAS QVE VOS, VOS ELEGIMOS REY, CON EST* , *AS Y ESTAS CONDITIONES INTRA VOS Y NOS VN QVE* , *MANDA MAS QVE VOS*: that is, *We who are as great as you, and* , *are able to doe more then you, have chosen you King upon these and these conditions:* , *Between you and us there is one greater in command then you; to wit, the Iustice of* , *Arragon*; Which Ceremony (lest the King should forget it) is every three yeares , repeated in the Generall Assembly of the States of *Arragon*; which Assembly the , King is bound by Law to assemble, *it being a part of the very Law of Nations, which* , *sacred Liberty of Parliaments, and Assemblies if any Kings by evill arts restrain or* , *suppresse, as violaters of the Law of Nations, and void of humane Society, they are no* , *more to be reputed Kings, but Tyrants*, as *Hotoman* hence determines.

(q) *Quæst.* 3. *f.* 162, 163.
(r) *Franco-gal. c.* 10. *p.* 75. 76. *De iure Magist. in subditos, p.* 282, 283.

I have now given you somewhat an over-large account of the two(*) greatest and , most absolute hereditary Kings in Christendom, *France* and *Spain*, and proved them to be inferiour to their Lawes, Parliaments, Kingdomes, People, out of their owne Authors and Historians; in which points, if any desire further satisfaction, I shall advise them to read but *Iunius Brutus his Vindiciæ Contra Tyrannos*, *De jure Magistratus in subditos*, and *Franciscus Hotomani his Franco-Gallia*; and *Controvers. Illust.* for France: *Ioannis Mariana, de Rege & Regum Instit. l.* 1. with his *History of Spain*, *Hieronimus Blanca, Rerum Arragonensium Commentarius*, *Ioannis de Laet Hispaniæ descrip. c.* 5. *& Vasquius, Contr. illust.* for Spain, at their leisure, and then both their judgements and consciences will be abundantly satisfied herein.

(*) *see Mr. Seldens Titles of Hon. par.* 1. *c.* 8. *sect.* 6. *p.* 256. *to* 291.

I shall

I shall now very cursorily run over other forraigne Kings and Kingdoms of lesse power and Soveraignty with as much brevity as may be.

For the Kings of *Hungary, Bohemia, Poland, Denmarke, Sweden,* as they have been usually, and are at this day for the most part, not hereditary, but meerly ellective by the Nobles and people; so their Lawes, which they take *an Oath inviolably to observe, and their Parliaments, Nobles, people, are in Soveraigne power and jurisdiction paramount them, as much almost (if not altogether) as the State of Venice is above their Duke, or the States of the Low Countries superiour to the Prince of Orange*; and may upon just occasion not onely forcibly resist them with Arms, but likewise depose (if not adjudge them unto death) for their Tyranny, as (v) *Iohn Bodin*, the Historics of *Hungary, Poland, Bohemia, Denmarke, Sweden, Iunius Brutus, De Iure Magistratus in Subditos, Munster in his Cosmography*, and those who have compiled the Republikes of these Realmes attest; who further evidence, that most of these Realms have sometimes elected them Kings, other times onely Dukes, and made their republikes, Principalitis, Dukedoms or Kingdoms at their pleasure. To give onely some briefe touches concerning these Realmes and their Kings.

(v) Commonweal, l. 1. c. 10. l. 2. c. 5.

Hungary.

THe Kings of *Hungary are meerly elective by the States and Senators, in their Parliaments or assemblies of the Estates, without whom they can neither make Lawes, impose Taxes, leavie Warre, nor conclude Peace; and the grand Officer of the Realme, to wit the great Palatine of Hungary (who hath the chiefe Command both in Peace and Warre, and power to judge the King Himselfe in some cases) is elected onely in and by their Parliaments*, as the (x) Marginall Writers manifest at large. For their Realms and peoples deportment towards their ill Kings (since they became Christians) when they have degenerated into Tyrants, and otherwise misdemeaned themselves; take this briefe Epitome. *Peter* the second Christian King of *Hungary*, growing very insolent, Tyrannicall, and lascivious, ravishing maids, matrons; in the third year of his reign all the Nobles and people thereupon conspiring together, *deposed and banished him the Realme*, electing *Alba* in his place; who growing more insolent and Tyrannicall then *Peter*, was in the third year of his reign slaine in warre, and *Peter* restored to the Crown: who proceeding in his tyrannies, sacriledge, and cruelty, he was the third year after his restitution, taken prisoner by his subjects, his eyes put out, and imprisoned till he dyed. *Solomon* the fift King of *Hungary*, was twice deposed and thrust out of his Kingdom, first by King *Bela*, next by King *Gysa*, elected Kings by the peoples generall consent and acclamation; after whose death the *Hungarians* refused to restore *Solomon*, and elected *Ladislaus* for their King; whereupon *Solomon* became an Hermite, and so dyed. *Ladislaus* dying, left two sons, *Almus* the younger, whom they elected King, and *Coloman* the eldest, to whom *Almus* out of simplicity surrendred the Crown, because he was the elder brother, whom he would not deprive of his primogeniture; but repenting afterwards, by the instigation of some of his friends, he raised warre against his brother: But the *Hungarians* to prevent a civill warre and effusion of blood, DECREED, *that these two brethren should fight it out between them in a single duell, and he who conquered in the duell, they would repute their King*; Which Combate *Coloman* being purblinde, lame and crookback'd, refused; after

(x) *Rerum Vngaricarum Scriptores, Nicholaus Isthuanfus de rebus Vngaric. Hist. l. 6 p. 84, 85. Bodin. de Rep. l. 1. c. 10. Bonfinius; Decades rerum Vngarcarum, Munst. Cosmog. l. 1. c. 418, 19. Respub & status Hungariæ, An. 1634. De Iure Magist. & Subditos.*

after which *Coloman* treacherously surprising his brother *Almus*, contrary to agreement, put out his and *Bela* his sonnes eyes, and thrust them into a Monastery. King *Stephen* the second sonne of *Coloman*, refusing to marry a wife, and following Harlots, the Barons and Nobles grieving at the desolation of the Kingdome, provided him a wife of a Noble family, and caused him to marry her. After which making a war to aid *Duke Bezen* without his Nobles consent, in which *Bezen* was slaine: the Nobles of *Hungary* assembling themselves together in Councell, sayd: *Why, and wherefore dye we? if we shall claime the Dukedome, which of us will the King make Duke? therefore let it be decreed that none of us will assault the Castle, and so let us tell the King*, Because he doth all this without the Councell of his Nobles: They did so, and added further, *that if he would assault the Castle, he should doe it alone; but we* (say they) *will returne unto Hungary and* chuse another King. Whereupon, By the Command of the Princes, *the Heraulds proclaim'd in the Tents, That all the Hungarians should speedily returne into Hungary*: wherefore the King when he saw himselfe justly deserted of his subjects ayde, returned into *Hungary*. *Stephen* the third comming to the Crowne, did nothing without the Authoritie and advise of the Senate. *Stephen* the fourth sonne of *Bela* usurping the Crowne, was soone after expelled the Kingdome. *Emericus* being elected King, was very likely to be depriued by the Nobles and people for his sloathfulnesse, but that he appeased them with good words and promises. King *Andrew* going to *Jerusalem*, his Queene, *Elizabeth*, in the meane time delivered the Wife of *Banchau* a Nobleman, being very beautifull to her brother who doated on her, to be abused, which *Bauchan* hearing of, slew the Queene: the King upon his returne examining this businesse, acquitted *Bauchan*, and judged her murther just, being for so lewd a fact. *Ladislaus* the fourth, giving himselfe to all effæminacy, luxury, and Harlots, became odious to his Barons, Nobles, People, for which he was excommunicated by *Firmanus* the Popes Legat, that he might live Christianly and Chastly; but he reforming not, was soone after (in the yeere 1190.) slaine by the *Cumans* and his Kingdome infested with civill warres. *Mary* the daughter of K. *Lewes*, being received as Queene by the *Hungarians* for her fathers merits, after his decease, being yet young, was married to *Sigismond*, who was admitted into partnership in the government of the Realme, and being governed by her mother and *Nicholas de Gara*, who perswaded them to carry a strict hand over the Nobles of the Realme, which they did: thereupon the Nobles seeing themselves despised, sent for *Charles* King of *Naples* into *Hungary*; forced *Mary* and her Mother to resigne their rights to the Crowne, and crowned *Charles* King at *Alba Regalis*. When he was crowned the Bishop of *Strigonium*, according to the custome, demanded of the people thrice, with a lowd voyce; Whether it were their pleasure that Charles should be crowned King? who answered, Yes: which done he was crowned, and soone after murthered by the two Queenes treachery; Who were shortly after taken prisoners by *John de Hornach*, governour of *Croatia*; the Queen Mother *Elizabeth* drowned, Queen *Mary* kept prisoner, and at last released upon oath given, not to revenge her Mothers death: who contrary to her oath caused *Hornach*, and 32. Nobles more to be beheaded by *Sigismond* her husband, whose kindred and children thereupon conspired against King *Sigismond*, tooke and detained him prisoner *Anno* 1401. till they should proceede further against him,

John de Thwrocz. Hungar. Chron. c. 36. p. 71.

and in the meane time the Nobles of *Hungary* elected *Ladislaus* King of *Apulia* for their King, and at last deposed *Sigismond* for his misgovernment, cruelty, love of women. After [a] *Sigismonds* death, the Nobles and people were divided in the choise of their King; one part electing and crowning *Uladislaus* King of *Poland*, the other party *Ladislaus* an infant, for their King: but *Uladislaus* his party prevailing, he was not long after slaine in a battle against the Turkes; and the government of the Realme committed to that Noble Souldier *Huniades*, during the Minority of *Ladislaus*, who at his ripe age, was received and declared King by all the *Hungarians*. *Ladislaus* deceasing, the *Hungarians* elected the Emperour *Frederick* King, who delaying to come and take the election, they thereupon chose *Mathias* King, who enjoyed the dignity, notwithstanding the Emperours opposition. *Anno*. 1608. *Mathias* King of *Hungary* denyed the Protestants in [b] *Austria* free exercise of their Religion, they thereupon were forced to take up Armes, and assembling together at *Horne* made a Protestation, and sent to the States of *Hungary* requiring them to assist them with the succours that were promised by the offensive and defensive league: after which they obtained a peace, and part of what they demanded. [c] *Anno* 1613. In an Assembly of the Estates of *Hungary*, the differences concerning the defence and *Militia* in the borders of *Hungary* against the *Turke* were ordered and setled. And [d] *An.* 1618. After many slow proceedings, they elected *Ferdinand* of *Bohemia* for their King of *Hungary*; but with these conditions, 'That he should Religiously observe, and cause to be immovably observed all the 'Liberties, Immunities, Priviledges, Statutes, Rights and Customes of the Kingdome, with the Conclusions and Treaties of *Vienna*, and all the Articles comprehended therein, and all other concluded both before and after the Coronation of 'the Emperours Majestie, in the yeares 1608. and 1609. Which Articles being 'ratified by the Emperour under his Letters Patents, they proceeded to the Coronation, according to the accustomed manner. Such is the Soveraigne power of the 'States of *Hungary* to this very day. And in one word, so odious were [e] Tyrants anciently to the *Slavonians* and *Hungarians*, that by a publick Law of their Ancestors, 'he who slew a Tyrannicall King, was to succeede him in the Kingdome.

[a] See *Grimstons* Imperiall History, p. 606 *Chytræus Chron. Saxoniæ.*

[b] *Grimston Imp. Hist. p.* 730. 731.

[c] *Grim.* p. 739

[d] *Grim.* p. 748.

[e] *Saxagrãumaticus Danicæ Hist. l.* 8. p. 140

Bohemia.

For the Kings and Kingdome of *Bohemia*, *M. Paulus Stranskius* in his *Respublica Bohemiæ. c.* 5 & 12. informes us out of the Fundamentall Lawes of *Bohemia*. 'That the power of the Kings of *Bohemia*, who are Elected by the generall Votes 'of the States, is so farre restrained in that Realme, that they can determine nothing 'concerning the Kingdome or great Affaires of the Realme, but in their Parliaments, 'or generall Assemblies of the Estates, by the generall consent of the people; which 'are Summoned by the king himself and held (just like our Parliaments) in the kings 'Regency, and during the Interregnum by the Senate of the Realme, as often as 'there is occasion; there being this clause in the Writ of Summons; That whether 'all those who are so nomed come at the day or not, the king with those who appeare, will proceed to decree what shall be just and beneficall for the Republicke, 'and that those who neglect to appeare shall be bound thereby; all Lawes and Acts 'are therein passed by publicke consent. The king cannot alien or morgage any of the

[a] See *Bartholdus Pontanus Bohemiæ piæ l.* 5. 6. *& Pauli Gesebinii Majestas Carolina.*

the Crown Lands, nor releate nor diminish the revenues & Liberties of the Realm, nor promote any strangers to the custodies of Castles or publicke functions; impose no Taxes, charges; nor altar the ancient manner of the Militia of the Realm, nor make warre or peace, without the Parliaments advise and consent. And [f] before the king is Crowned, the *Burgrave* and *Nobles*, in the Name of all the Realme, demand of him to confirm and ratifie both with his especiall Charter, and publick Oath, the Ancient and laudable Priviledges, Immunities Liberties Rights, Laws, Customes, and Institutions, as well private as publicke, of all and singular the inhabitants of the Realme, and to governe them according to the rule of the Lawes after the example of his predecessors kings of *Bohemia*. Which done, he seales and delivers them a speciall Charter, takes such a solemne Oath, and then is Crowned upon these Conditions. The [g] Arch-bishop of *Prague* after the *Letany* ended, demands of the king, kneeling on his knees: *Wilt thou keepe the holy faith delivered to thee from Catholick men, and observe it in just workes?* He answering, *I will*; He proceedes, and saith: *Wilt thou Governe and defend the Kingdome granted thee from God, according to the Justice of thy Fathers?* He answeres, *I will; and by Gods Assistance promise that I will doe and performe it by all meanes.* After this kneeling on his knees, the Arch-bishop holding the New Testament open, and the Burgrave reading the words first; the king takes this Oath in the *Bohemian* tongue *We sweare to God (the mother of God and all Saints) upon this holy Gospell, that we will and ought to keepe immovably to the Barons, Knights, and Nobles, also to those of Prague and the other Cities and to all the Commonalty of the Realme of Bohemia, the Institutions, Lawes, Privileges, Exemptions, Liberties, and Rights, and also the ancient, good and laudable customes of the Realme; and not to alienate or morgage any thing from the same Kingdome of Bohemia, but rather to our power to augment and enlarge it; and to doe all things which may be good and honourable to that Kingdome: So helpe me God* (touching the booke with two of the fingers of his right hand) *and all Saints.* (The Kings of *Navarre* take the like Oath.)

[f] *Pauli Stransbii. Respub. Bohemiæ c. 5. sect. 14. 5. p. 174 75. 178 179.*

[g] *Munst. Cosm. l. 3 c. 492. Buchholdus Pontanus Bohemiæ Piæ, l. 1. 2.*

*Gen. Hist. of Spain. l. 17. p. 626.

How [h] this Realme hath beene altered from a Principality to a Dukedome, and from it againe to a Kingdome, having sometimes Kings, sometimes Dukes, both elected by the free choyse of the Estates, to whom they were inferiour in Soveraigne power, accountable for their mis-government, and removeable from their Throne: you may read in the [h] marginall Authors. Not to mention the *Bohemians* deposition of *Libussa* a Noble *Virago*, who governed them for a season, reputing it a dishonour to the Nation to be ruled by a woman, and electing *Przemyslus* for their Prince; their deposition and banishment of Prince *Borzinogius*, because he became a Christian, and renounced their Pagan Religion, though they afterwards twice restored him: Of *Boleslaus Rufus*, or *Borzinogius* the 2. thrice deposed banished by the Nobles and people; or *Sobeslaus* and other Princes. *Wladislaus* first King of *Bohemia* in his old age, by the assent of the Estates associated his sonne *Frederick* (*Anno* 1173) with him in the Regality. *Henry King* of *Bohemia* using the Councell of the *Germans* rather then the *Bohemians*, and looking more after his owne private gaine then the Kingdomes, was deposed in a generall Assembly of the Estates *Anno* 1310. and the sonne of the Emperour *Henry* the 7th. chosen King, upon this condition, if he would marry the youngest daughter of King *Wenceslaus*. King *Wenceslaus* the drunken, for his drunkennesse, negligence and

[h] *Paulus Stransb. Respub. Bohem. c. 5. de Principibus Regibusque Bohemiæ.* [h] *Munster pontanus ibid.*

cruelty, was twice imprisoned and severely handled by his Nobles, and upon promise of amendment, restored to his liberty and dignity: in his and *Sigismond* his successors raigns* *Zizca* and the *Taborites* in defence of their Religion against the Popish party, who most unjustly against their promise and safe conduct, caused *John Hus*, and *Jerome* of *Prague* to be put to death, waged great warres and obtained many victories against the King and Emperour, and gained free liberty of professing their religion publickely much against the Popes good will; which liberty they have ever since maintained by the sword, both against the Popish Emperours and Kings, by meanes of which civill wars, the kingdome suffered some Interregnums. During the Minority of king [c] *Ladislaus*, *Anno* 1439. this kingdome was governed by two Presidents, appointed by the Estates.

* See Æneas Silvius Hist. Bohem. Fox Acts and Monuments vol. 1 p 848. to 852. Pontanus Bohemiæ lib. 1. 2.

[i] *Anno* 1611. the Emperour *Rodulph* being willing to settle the kingdome of *Bohemia* on his Brother *Matthias* in an assembly of the States of *Bohemia* called for that purpose, the Estates thereupon drew many Articles which *Matthias was to sweare to, before his Coronation*, with 49. Articles of complaints and grievances for which they craved redresse: and the inhabitants of *Prague* required the confirmation of 8. Articles, which concerned the private Government of their City; *All which the Emperour and Matthias were constrained to Grant and sweare to, before they would admit Matthias to be their King*; who had nothing in a manner *but the Title, some of the flowers of the liberty of the Crowne, being parted with by his assenting to these Articles.* [k] *Anno* 1617. *Matthias* resigning the Crowne of *Bohemia*, and renouncing his right thereunto, recommended *Ferdinand* Arch-Duke of *Austria*, to them or his successour. The States would not admit him king but upon Conditions, *the which if he should infringe*, The States should not be bound to yeeld him Obedience. Moreover it was added, *That he should confirme to the States before his Coronation, to maintaine all the Priviledges, Charters, Immunities, Municipall Rights, Constitutions and Customes, of the Realme and people, as the Emperour and his predecessors had done, by his Oath, and Charter in Writing.* All which assented to, he was proclaimed and crowned king. Soone after the Arch-bishop of *Prague* causing some of the Protestant Churches to be ruined, and those who complained of it to be put in prison; and plotting the extirpation of the Protestant Religion, through the *Iesuites instigation*, contrary to their Liberties and the Provinciall constitution; hereupon the Protestant States of *Bohemia* assembled at *Prague*, fortified the Towne, binding the three Townes of *Prague* to them by an Oath; entred into a *solemne League, promising to fight against the Common enemies of God, the King and Religion, and in that cause to live and dye*: to which end they levyed a great Army; banishing the Jesuites out of *Bohemia*, as the Authors of all the miseries which had hapned in that Realme, and many other Realmes and States of Christendome, and inciting murderers to kill Kings who would not live after their manner, and medling with affaires of State, and who had drawne the whole Country into the hands of certaine perfidious Catholickes, by whose practises the Country was in danger of ruine. For which causes they banished them for ever out of the Realme of *Bohemia*, enjoyning them to depart within 8. dayes, *never to returne*. After this, the Protestants hearing that the Emperour and Popish party raised Forces against them, possessed themselves of many Townes and places within the Realme, and raised two Armies; *All the Protestant*

[i] *Grimstons Imperial Hist. p. 735.*

[k] *Grimstons Imperiall Hist. p. 744. 745.*

Princes and States of Germany, Morauia and Silesia (except the Elector of *Saxony*) *assisted them with men, money or Councell, publishing a Declaration to justifie their action, being for the Common cause of Religion, then endangered.* The Prince of *Orange* and States of the united Provinces promised them assistance of men and money, other Protestant Princes and the Protestant States of *Lower Austria*, did the like. The Protestant Armies after this had many victorious incounters with the *Imperialists* and Popish Forces, and took many Towns. King *Ferdinand* in the meane time, being newly chosen *Emperour*, the States of *Bohemia* being assembled together at *Prague*, which the Deputies of the incorporated Provinces, *Anno.* 1619. Concluded and protested by Oath, never to acknowledge *Ferdinand* for their King who had violated his first Covenants; resolving to proceede to a new Election; and on the 26. of *August* Elected *Fredericke* the Prince *Elector Palatine* of *Rhine* to be their King; who accepted the dignity, & was afterward Crowned king accordingly. After which the States of *Bohemia* in sundry *Declarations* justified their rejection of *Ferdinand*, their Election of *Frederick*, and his Title to be just and lawfull, with their preceedent and subsequent warres in defence of Religion. Yea *Fredericke* himselfe by sundry Declarations maintained his own Title: and the lawfulnes of these wars; which passages and proceedings being yet fresh in memory, and at large related by *Grimston* in his [m] *Imperiall History*, I shall forbear to mention them. By this briefe account, you may easily discerne the Soveraigne power of the Realm and States of *Bohemia* over their kings and Princes, most of the [n] *great Offices of which Realme are hereditary, and not disposable by the King, but States who Elect their Kings themselves, and their greatest Officers too.*

[m] Page 745. to 250.

[n] *Pauli Stranki Resp. Bohem. c.* 10. 13. 14. 15.

Poland.

For the Kings and Kingdome of *Poland*. *Martinus Chromerus* in his *Polonia lib. 2. De Republica et Magistratibus Poloniæ*, informes us; that the Princes and Dukes of *Poland*, before it was advanced unto a Kingdome, and the Kings of it ever since it became a Realme, were alwaies elected by the chiefest Nobles and States, unanimous suffrages; That after the Kings of *Poland* became Christians, their power began to bee more restrained then it was at first, the Clergy being wholly exempt from their royall Iurisdiction: That the King cannot judge of the life or fame of a knight (unlesse in some speciall cases) without it be in the assembly of the Estates with the Senate, nor yet publickly make Warre or Peace with any, nor impose Taxes or Tributes or new Customes, nor alienate any of the goods of the Realme, nor yet doe or decree any greater thing pertaining to the Common-wealth without the Senates or Parliaments assent. Neither can hee make new Lawes, nor publickly command money in an extraordinary manner, nor coine money, nor nominate a Successor not with the Senate, without the consent of the Nobility, whether of Knights or Gentlemens Order; By, or out of whom all publicke Magistrates and Senators almost are chosen: so as now the summe or cheifest power of the Republicke is residing in them. So that the Kingdome and Republicke of the *Polonians* doth not much differ in reason from that of the *Lacedemonians* in ancient times, and of the *Venetians* now. An Oath is exacted of the new King when he is crowned, to this effect. That he shall raigne according

[o] See *Munst. Cosmog. l.* 4. *c.* 2. 4. 5.

'according to the Lawes and institutes of his Predecessors; and will safely conserve 'to every order and man his right, priviledge, and benefit, confirmed by former 'Kings; nor will he diminish any of the borders or goods of the Realme, but will ac- 'cording to his power recover those that are lost from others: After all which the 'Senate sweare fealty to him, &c. The Revenues, Tributes, and Customes of the 'King are all reduced to a certainty; the Nobles & Clergie are exempted from Taxes. 'The king by the Lawes of King *Alexander*, is prohibed to alien to any one the 'Lands of the Crowne. No new Lawes can be made, nor old ones repealed but 'by the king, Senate and Nobles assembled in Parliament. And because there is 'wont to be in highest power, a slippery and ready degree to Tyrannie, certaine 'Senators and Councellours are adjoyned to the King, who may direct his Coun- 'cells and Actions to the safety of the Common-wealth, and his judgements accor- 'ding to the Rule of justice and equitie, and with their wholsome monitions and 'Councells, may as there shall be occasion, as it were with certaine living Lawes, 'both informe his minde and moderate his power. This Royall Senate, much 'greater now then in times past, consists of a certaine number of men, which wee 'call the Senators or Councellours of the REALME; who are not admitted to 'the Councell without an Oath: and this Office is perpetuall during life, having 'certaine Honours and Magistracies thereto annexed, partly Ecclesiasticall, partly 'Civill; It consists of *96.* persons in all, some of them Bishops, others Palatines, 'Knights, Castellanes, and other Officers of the Realme. The Chancellor of the 'Realme may signe many things without the Kings Privitie, and may deny to 'seale those things which are contrary to Law, though the king command them. 'Most of the great Officers and Magistrates are chosen in *Parliament*, and cannot be 'displaced but in Parliament, and that for some great offence. Their Parliaments or 'Generall Assemblies of the States are held (much like ours) once every yeare at 'least, and some times every fift or sixth moneth, if there be occasion; and then they 'are kept constantly at one place, to wit at *Petricow*, or *Warsavia* in the midst of the 'Kingdome, unlesse it be upon some extraordinary just occasion, and then the king 'by advice of this Councel may sommon the Parliament at another place. It is provi- 'ded by a Law within these 20. yeares; That it shall not be lawfull to the King to 'make a warre without the assent of his Parliament and Great Councell; and that 'the Nobles as oft as there is occasion, shall at their owne costs without wages de- 'fend the borders of the Realme, yet not without the King, unlesse it be during the 'Interregnum; but they may not be compelled to goe out of the Realme to any For- 'raigne warre without wages: the Souldiers wages are reduced to a certainety, and 'assessed by publicke consent in Parliament, which Orders all Military and Civill 'Affaires. So *Cromerus*.

For their carriage towards their ill Kings, I shall give you onely a short account. P *Miesco* their second King, being unfit to governe, a man given wholly to his belly, ease, sleepe, pleasure, and *governed by his Queene*, thereupon most of his subjects revolted from him; and he dying, the *Polonians* at first for many yeares, refused to chuse *Cazimirus* his Son King, least he should follow his fathers steps; till at last after a long *Interregnum*, when he had turned Monke, they elected him King. *Boleslaus* his sonne, a man of a dissolute life, given to lust, and the pest of the Realme, was excommunicated by the Bishop of *Cracow* for his wickednes

P *Munst. Cosm. l. 4. c. 710 Martinus Chromerus de Rebus Polonorum. Heylins Geog. p. 378. Gaguinus Chytræus*, and others.

kednes; for which cause he slew him: Whereupon the Pope deprived him, and *Poland* of the Crowne, and absolved his Subjects from their obedience to him, who expelled and forced him to flee out of the Realme into *Hungary*, where he became mad and died. *Mieszlaus* the 10. King of *Poland*, exercising tyranny every where upon his people by reason of his power and allies, was deposed by his subjects, and *Casimirus* elected King in his stead; He was three or foure times deposed and put by the Crowne; *Boleslaus* who succeeded *Henry*, was deprived of the Monarchy; *Henry* was surprised and most strictly imprisoned. *Boeslaus* was slaine by his Nobles; and *Vladislaus Lockiet*, elected King in his stead, ravishing virgins, Matrons, and not reforming things according to promise; the Nobles hereupon assembling together *An* 1300. abrogated his election, as pernicious, and chose *Wenceslaus* King of *Bohemia*, King in his place: And not to recite more ancient histories of such like nature, 9 King *Henry* the third of *Poland* was elected and sworne King upon conditions which he was to performe *Anno* 1574. After which he secretly departing out of *Poland*, without the assent of the Nobles, to take possession of the Crowne of *France*, within 3. monthes after his Coronation in *Poland*: the *Polonians* sent Messengers after him to *Ferrara*, *June* 16. 1574. who denounced to him, that unlesse he returned into *Poland* before the 12. of *May* following, they would depose him, and elect another King: Which he neglecting, *they in a generall assembly of the Estates at Warsawia, deprived him of the Crowne, and elected a new King: the Chancellor and greatest part of the Counsellers elected Maximilian the Emperour*; Some others, with the greater part of the Nobility, desiring to have one of the Polish blood, elected *Anne* sister of their deceased King *Sigismund*, giving her for husband *Stephen Battory* Prince of *Transylvania*, and proclaimed him King. The Emperour making many delayes, *Stephen* in the meane time enters *Poland*, marrieth *Anne*, and is crowned King by generall consent, *Febrvary* 8. 1576. who tooke this memorable Coronation Oath prescribed to him by the Nobles. *I Stephen by the grace of God elected King of Poland, great Duke of Lithuania, &c. promise and sacredly sweare to Almighty God, upon these holy Evangelists of Iesus Christ, that I will hold, observe, defend and fulfill in all conditions, articles, and points therein expressed, all Rights, Liberties, Securities, priviledges publike and private, not contrary to the common Law, and Liberties of both Nations, justly and lawfully given and granted to the Ecclesiasticks and Seculars, Churches, Princes, Barons, Nobles, Citizens, inhabitants, and any other person of what state and condition soever by my godly Predecessors, Kings, Princes or Lords of the Kingdome of Poland, and of the great Dukedome of Lithuania, especially by Casimer, Lewis the great, called Loys, Vladislaus the first, called Iagiello and his brother Withold great Duke of Lithuania, Vladislaus the 2. Casimyr the 3. John Albert, Alexander, Sigismund the first, and 2. Augustus, and Henry Kings of Poland, and great Dukes of Lithuania*; or derived and granted from them, together with the Lawes enacted, and established or offered by all the States during the *inter regnum*, and the pacts and agreements of my Orators, made with the States in my name. That I will defend and maintaine peace and tranquility between those who differ about Religion; neither by any meanes, either by Our Iurisdiction, or by any authority of Our Officers or states, permit any to be troubled or oppressed, neither will we our Selfe injure or oppresse any by reason of Religion.

9 *David Chytraus, Chron. Saxon. l. 23. p. 690. 692. 694 695. 695. 696 Crantzius in parvali hist. eccl. 694. 695.*

'Religion. All things any way whatsoever unlawfully alienated, or distracted, either by warre or any other meanes, from the Kingdome of *Poland*, the great Dukedome and their dominions, I will re-unite to the propriety of the said Kingdome of *Poland*, and great Dutchy of *Lithuania*. I will not diminish the lands of the Kingdome and great Dukedome, but defend and enlarge them. I will administer justice to all the inhabitants of our Kingdome, and execute the publike Laws constituted in all my Dominions, without all delaies and prorogations, having no respect of any persons whatsoever. And if I shall violate my Oath in any thing (which God forbid) the Inhabitants of my Realme, and of all my Dominions of what Nation soever, shall not bee bound to yeeld me any Obedience: Yea, I doe *ipso facto* free them from all Faith and Obedience which they owe unto me as King. I will demand no absolution from this my Oath of any one, neither will I receive any, which shall be voluntarily offered, So help me God. To this notable Oath (an unanswerable evidence of the States of *Polands* absolute Soveraignty over their Kings) this King within 4. dayes after his Coronation, added a *confirmation of their Priviledges, containing the same heads*, enlarged with a few more words; which he confirmed with his solemne deed and Royall Seal, and delivered the same to the Chancellor, and Vice-chancellor of the Realme to give out Coppies of them, under the great Seale to all the States of the Realm; who meeting [f] afterwards in a Parliament at *Warsauia*, *Anno* 1562; there was much debate about setling of the Premises, and nothing concluded.

[f] *Chytræus Chron. Sax. l. 25. p. 765. 766. l. 27. p. 809. 810. & l. 28 29. & p. 948. 949.*

[g] *Anno* 1587, the States of *Poland* questioned and opposed K. *Stephen*, for violating their Priviledges, and those of *Riga* tooke up armes in defence of them; refusing after his death to repaire to the Assembly of the States at *Warsauia*, *Anno* 1587. vnlesse their Priviledges might be preserved and rectified, as you may read at large in *Chytræus*. King *Stephen* dying the Estates of *Poland*, and *Lithuania*, assembled at *Warsauia*, *Anno* 1587. where they made Lawes for preserving the Peace during the *Inter regnum*; and enacted, that no new King should be elected, but by the unanimous consent and agreeing Suffrages of all the Estates, and that he who shall nourish factions, or receive gifts or rewards, or use any other practises about the election of a new King, should bee reputed an Enemy of his Country. After which they proceeding to an Election; there were divers competitors named: and after many debates; One part chose *Maximilian* Duke of *Austria*, the other *Sigismund* the King of *Swethland* his Sonne, both of them upon expresse articles and conditions, which they both sealed and swore unto, the 'chiefe whereof were these; To preserve all their Rights, Lawes, Priviledges, 'and Immunities publike or private, inviolably; To keepe all former Leagues and 'Truces; To bestow no Offices upon strangers nor harbour any about them, (except some few Private servants) but natives onely, and to be counselled and 'advised by them alone. To maintain a Navy, Garrisons, and build divers Castles 'in the Frontiers at their owne costs for the Kingdomes preservation; To redresse 'all grievances, maintaine the Priviledges, Rights and Peace of those who differed 'in Religion; To procure and augment the weale, peace, Priviledges and safety 'of the Realme; and perform all Articles mentioned in the Oathes of King *Henry* 'and *Stephen*; In fine, this competition comming to bee determined by the sword: '*Maximillian* was taken prisoner by *Sigismund*, and forced to release his right

[g] *Chytræus Chron. Sax. l. 28. 29. 30. Grimst. Imp. Hist. p. 698. 699.*

to obtain his liberty: And a Decree passed in Parliament, *That no man hereafter should in the Election of the King of Poland presume to name, or recommend any of the house of Austria to the Crown, and if any did he should be ipso facto infamous:* Which decree the Emp. *Rodolph* desired might be abolished, as being a disparagement to that family, yet prevailed not. After which this King managed *all things concerning Warre, Peace, and the Goverment of the Realm, by advice of his Parliament*, as *Chytreus* at large relates; and his Successors to this present have done the like, taking the Crown upon such conditions, and making such conditionall Oathes at their Coronations, as *Steven* did at his.

Denmarke.

For the Kings of *Denmarke*, I have (t) formerly proved, *That they can make no War, Peace, Lawes, nor lay any impositions on their subjects, but by common consent of the Estates in Parliament; their Kings being elective by the people, and crowned Kings upon such conditions, Oaths, Articles, as their States, (in whom the Soveraign power resides,) shall prescribe unto them*; who as (v) *Bodin* clearly determines, have a lawfull *power to question, censure, and depose them for their Tyrannie and misgovernment*, they having no greater Authority then the Kings of *Bohemia* or *Poland*. To run over the Histories of all their ill Kings would be overtedious, for which you may peruse (x) *Saxo-grammaticus* & others; I shall give you a brief how some of their later kings have been handled by their subjects for their Tyranny and misgoverment. Not to mention the murthers of *Canutus* in *Iutland* in the very Church, or of *Magnus* or *Nicholas*, slain by their subjects; King *Humblus* was deprived of his Crown: and king *Harold* deposed by his subjects for his insolency. *Suano* waxing proud, Tyrannous and oppressive to his people, became so odious to them, that his Nobles adjoyned *Canutus* and *Waldemar* to him in the royall government, and divided the kingdom between them; who thereupon being much displeased, slew *Canutus* and wounded *Waldemar*, being impatient of any Peers in government; for which being soon after vaquished by *Waldemar*, hee was beheaded by the people. *Able* slaying and beheading his brother king *Ericus*, and usurping his Crown, the people rose up in arms against him, took him prisoner, and the Peasants in *Frisia* slew him. King *Christopher* spoyling *Waldemar* of his Dukedom of *Schlewick*, thereupon the Earles of *Holsatia* rose up in armes against him, took him prisoner, and detained him so at *Hamburgh*, till he paid a great ransome for his libertie. King *Ericus* was slain by his own servants, *Anno* 1286. king *Waldemar* was expelled the Realme by his Subjects, and afterwards restored upon his friends mediation; who not long after denying Merchants their ancient liberties in the Realme, the maritine Cities conspiring against him, entred *Denmark* with a great Army, expelled him the Realme, tooke his Castell of *Coppenhagen*, and had the land of *Scania* assigned to them for 16. years, by the Nobles, in recompence of their damages sustained. *Ericus* seeing his subjects every where rise up in Armes against him, sayled into *Poland*, *An.* 1438. and deserted his Kingdom and Soveraignty, the people denying him libertie to name a Successor, and electing *Christopher* Duke of *Bavaria* for their king. After whom they elected *Christierne* the first king, against whom the Sweeds rebelling for want of administration of justice, and the oppression of his Officers, vanquished *Christiern* in battell, and set up a new king of their own, named

(t) Par 1. p. 1. 2 *Henricus Rantzovius*, Comment. *Bellum.* l. 1 c. 3.
(v) *Commentat.* l. 1. 4. to. l. 2. c. 5.
(x) *Danicæ Hist. Chytr: Chron: Saxoniæ. Munsteri Cosmogr.* l. 4. c. 8, 9, 10, to 19. *Ioannis Magnus, Hermoldi Chron. Slavorum, Io. Isac. Pontanus Rerum Danicorum Hist.*

Charles, who *An.* 1455. abandoned the Royalty; the Swedes after that would neither create any new king, nor obey *Christierne*, nor yet King *Iohn* who succeeded him, whose Queen they took and detained prisoner two years, and maintained warre against him. (*y*) *Christierne* the second, King of *Denmarke*, was thrust out of his kingdome for his Tyrannie, and breach of his subjects Priviledges; which he endeavouring to regain, was taken prisoner by his Vncle *Frederick* Duke of *Scleswick* and *Holstein*, and committed prisoner to *Sunderburge* in *Holsatia*, where hee dyed in chains: *Frederick* was elected king in his place, (upon certain Articles and conditions which he was sworn unto before his Coronation) in a generall assembly of the States held at *Hafnia*, *An.* 1524. in and by which assembly *Christierne* was solemnly deposed, and a *Declaration made, printed and published in the name of all the States of Denmark*, wherein they expresse the cause why they renounced their faith and obedience to *Christierne*, sworn unto him upon certain conditions which he had broken, and elected *Frederick*: Which Declaration because it is not common perchance to every ordinary Shollar, and contains many things touching the frame and liberty of the kingdom of *Denmarke*, the Articles to which the kings do usuall swear at their Coronations, and the Tyrannies of *Christierne*, for which he was deprived. I shall here insert, as I finde it recorded in (*z*) *David Chytraus.*

(*y*) *Chytr. Chr. Sax. l.* 10, 13. *p.* 301. *to* 312, 387 388. 389. *Olaus Magnus, lib.* 7. *c.* 8 *p.* 229 *De Iure Magist in Sub p.* 275. *Buchanon de Iure Regni apud Scotos, Dr Beards Theatre of Gods Iudgements. l.* 2, *c.* 10. *p.* 445. (*z*) *Chron. Sax. l.* 10, *p.* 303, *to* 312.

OMnibus Christianis Regnis, principatibus, regionibus & populis, notum est, in orbe Christiano, celebre regnum DANIÆ *situm esse, quod non secus ac cætera regna, plurimis jam seculis, Regia sua præeminentia, dignitate, ornamentis & libertate præditum fuerit, & adhuc sit; ita quidem ut Regnum Daniæ, ejusq; legitimè electi Reges nullum unquam superiorem magistratum aut Dominum agnoverint. Omnibus quoq; temporibus, Archiepiscopis, Episcopis, Dynastis, prælatis & nobilitati liberrimum fuit, regem, & Dominum aliquem suo judicio & arbitrio designare, & in communem regni & Patriæ consolationem & salutem eligere, cujus gubernatione, exemplo, & ductu regnum supradictum, Christianis statutis & ordinationibus, secundum leges suas scriptas & antiquas consuetudines vigere, miseri & oppressi subditi sublevari, vidua & pupilli defendi possent. Qui quidem rex semper hactenus a prima electione convenienti juramento & obligatione se huic regno devincire coactus est. Etiamsi igitur nobis omnibus regni hujus ordinibus & consiliariis licuisset post obitum potentissimi Regis quondam Daniæ Iohannis laudatæ memoriæ pro jure nostro, secundum antiquam, & multis seculis continuatam regni Danici libertatem, regem aliquem pro arbitrio nostro designare & eligere: tamen virtute, justicia, magnanimitate, bonitate & beneficientia, eorum Daniæ regum, qui ex Holsatorum prosapia originem duxerant, moti; & bona spe freti fore ut rex Christierunus è vestigiis regiis avi sui Regis Christierni, & R. Iohannis patris sui non excederet: sed potius ad eorum similitudinem & exemplum, gubernationem suam institueret: supradictum R. Christiernum II. vivo adhuc patre Iohanne in Regem & Dominum totius Daniæ designavimus & elegimus.*

Quo quidem ipso tempore celsitudo ipsius solemni IURAMENTO, *verbis conceptis, & Deo sanctisque testibus citatis, præstito, Archiepis. Episcopis, Dynastis, prælatis, equitibus, civitatibus & populo regni Danici se devinxit & obligavit, cujus juramenti inter alia hæc quoque capita expressa fuerunt: Debemus ante omnia Deum diligere & colere, & sanctam ecclesiam defendere & amplificare. Omnia Episcoporum, Prælatorum & ministrorum status ecclesiastici privilegia, à S. Ecclesia & regibus Christianis ipsis concessa, inviolata conservare. Archiepiscopos quoque, Londensem et Nidrosiensem, et præterea*

Episcopos,

Episcopos, prælatos, Equites auratos, & alios ordinis Equestris, Regni Proceres & Consiliarios, convenienti observantia & honore, pro cujusq; conditione & statu prosequi: Si qua nobis controversia sit cum Archiepiscopis, Episcopis, aut prælatis S. Ecclesiæ, eorumque ministris, in locis convenientibus, nimirum coram senatu regni, cognosci & transigi oportebit. Si qua nobis ipsis, aut præfectis nostris, controversia, cùm aliquo ex nobilitate, sive is senator regni sit, sive non, incidet, cum coram universo regni senatu, hoc nomine compellare debemus, sive ea controversia sit de fundis, sive de aliis quibuscunque bonis aut negotiis.

Et sicuti tenemur unumquemq; juvare, ut jus suum consequatur; Ita nos ipsi quoq; obnoxii esse debemus, unicuique coram senatu Regni nos accusanti comparere, & ad ipsius postulata usitato Judicium more respondere, & quicquid a senatu regni super ea re decretum & pronunciatum fuerit, id ipsum exequi, neque hujusmodi legitimas accusationes aut postulationes inclementi animo ferre. *Debemus etiam sine ullo præjudicio, gratia, aut muneribus, ex æquo, tam pauperi quàm diviti, tam hospiti quàm indigenæ, jus dicere & administrare.* Nullum etiam bellum incipere, aut externum militem in regnum introducere debemus, communi senatu Regni non præscicnte & consentiente. *Literis quoq; & Diplomatis vel nostro, vel etiam patris nostri Regis Iohannis signo confirmatis, plenam & inviolatam fidem & authoritatem relinquere, ejusq; æs alienum, quod liquidum est, dissolvere debemus. Moneta quoque, quam cusuri sumus, proba & sufficiens esse debet, ita, ut duæ marcæ æquivalentes sint uni aureo Rhenano. Item, Nos Christiernus & obligamus nos, quod omnes & singulos articulos, in quos jurandum nobis est, incolis regnorum Daniæ & Norwegiæ, constanter reipsa præstare velimus. Sicuti etiam ex adverso subditi obligati esse debent ad suum homagium, & auxilia militaria inviolata servanda & præstanda.*

Si vero (*quod Deus avertat*) contra istos articulos agendo delinqueremus, & senatorum regni admonitionibus nullo modo locum dare institueremus: tum omnes regni incolæ, ratione honoris & juramenti sui, conjunctis viribus, fideliter *Nota.* in hoc incumbere debent, ut hoc avertant. Id faciendo, contra sua juramenta, obligationes, homagia, quo abstricti nobis sunt, nequaquam fecisse censeri debebunt. *Hujus generis plures alii articuli juramento inserti fuerant, qui hoc loco brevitatis gratia prætermittuntur.*

Ut etiam regia ipsius dignitas, post juratos hosce articulos vehementius & ardentius ad virtutes regias, & Christianarum sanctionum hujus regni conservationem incitaretur & inflammaretur, commodas rationes & vias inivimus, tandemq; perfecimus, ut illustrissima princeps D. Elizabetha, ex Hispaniarum regum & Archiducum Austriæ illustrissima prosapia oriunda, matrimonio ipsi conjungeretur. Sperabamus enim dignitatem ipsius regiam, admonitionibus nobilissimæ & excellentis virtute, & summa orbis Christiani regum familia ortæ reginæ, & præterea consideratis tantis & tam eximys ac sublimibus tot Regum ac Imperatorum affinitatibus, motum iri, ut omnibus Christianis & regijs virtutibus, cum clementia & bonitate conjunctis, in tota gubernatione suaeo diligentius incumberet.

Verùm, statim post coronam acceptam, Regia illius Majestas animi acerbitatem, tyrannidem, rapinas, immanitatem crudelem & sanguinariam, declaravit (quod tamen non injuria ipsum afficiendi animo, sed extrema necessitate, ad defensionem honoris nostri compulsi, scribere & divulgare volumus, de quo ipso palam protestamur) imprimis autem amoris & fidei conjugalis nobilissimæ & omni virtute præstantis Reginæ præ-

ſtita, oblitus eſt. Quædam enim turpis, infamis & peregrina vetula, Syburgis, omni pudore & virtute deſtituta, & ad omnem impuritatem projecta, propriam ſuam filiam, Regi proſtituit. Quam regina conjugi ſuæ nobiliſſimæ, ſtatus conditione, dignitate & gubernatione Rex præluit, eiq; præ omnibus regni conſiliariis ſummam Imperii in Dania commiſit, ex cujus perverſa adminiſtratione & mandatis, multæ cædes, homicidia & injuſtæ in cauſis tam capitalibus quàm civilibus condemnationes extiterunt: Et quamvis Regina (quam ſemper pro Regina & dominatrice noſtra deinceps quoq; agnoſcere & habere cupimus) ab honeſtiſſ. matrona, Anna Holgeria, Gynecei ſui præfecta, moneretur, ut Dominum & maritum ſuum amicè hortaretur, ut à vita illa flagitioſa, quæ Chriſtianum conjugem, & imprimis regiam dignitatem, nequaquam deceret, deſiſteret: tamen, quam primùm hoc rex & anus illa reſciverunt ſtatim illa, propter Chriſtianam admonitionem innocens ab officio ſuo remota, & miſerabiliter regno expulſa, et omnibus fortunis ſuis ſpoliata eſt.

Eodem modo Tobernum Ochſitum, de veneno, filiæ Syburgis propinando, falsò à ſe inſimulatum innocentemq; deprehenſum, et à ſenatu quoque regni eo nomine abſolutum, ignominiam et contumeliam Germanicæ nobilitatis, tantùm mendacibus turpiſſimæ illius mulieris ſermonibus fidem habens, capite truncari juſſit.

Quamvis etiam R. ipſius Majeſtas ingens et publicum Bellum, contra datam fidem, nobis, nobis inconſultis et inſcijs, contra Suecos excitavit: tamen ut animum noſtrum fidelem, et regiam ipſius perſonam et nomen extollendi, imperium ampliſicandi, et exteras nationes et regna ſubjugandi cupidum, poſſet deprehendere: nos omnes noſtra corpora, fortunas, regiones et ſubditos, in magna pericula conjecimus: quod bellum ſeptennale, contra potentiſſimum regnum Succiæ geſſimus: et tandem cum effuſione ſanguinis noſtri, et extrema ferè cum pernicie floris nobilitatis Danicæ, auxilio Dei omnipotentis, contra regnum jam dictum, victoriam obtinuimus, et Regiæ ipſius Majeſtati Regnum ſubjicimus. Vt autem regnum Sueviæ in perpetua fide et obedientia Regiæ ipſius Majeſtatis maneret in ipſa coronatione SUECUS verbis conceptis, Deoq; et ſanctis teſtibus citatis, juravit, ſe ipſis antiqua ſua jura, immunitates, et privilegia incolumia relicturum, et omnium quæ in bello exorta ſint offenſionum, et inimicitiarum memoriam, ſempternaoblivione abolituram eſſe. Cumq; netum quidem ſatis Regiæ ipſius Mti ſiderent Sueci, neceſſe fuit nonullis ex Epiſcopis, Prælatis, et Nobilibus Danicis, pro rege fidem ſuam interponere, eamq; diplomatibus eo nomine confertis et obſignatis, confirmare. Qua quidem ipſa in re deeſſe illi noluimus.

The Oath of the King of Sueden

Etiamſi autem Regna et populi armis ſubjugati, tatummodo jure et juſticia in officio cotineantur: tamen Rex hoc ipſo non ſatis benè conſiderato, et maximis graviſſimiſq; juramentis poſthabitis, triduo poſt coronationem Succicam, Epiſcopos, Prælatos, Nobilitatem, una cum conſulibus et aliis præfectis (tanquam ad convivium regium & ſolennem de impetrata à Deo victoria gratulationem) invitavit, qui etiam fide & invitatione regia illecti, unà cum amicis, uxoribus & liberis ſuis, reverenter comparuerunt. Sed tam amicè invitati, admodum hoſtiliter excepti ſunt, ipſorumq; plauſus in mœſticiam commutatus eſt. Ex livore enim tyrannico ipſis imputatum eſt, quod pulvere tormentario arcem ipſius regiam paſſim conſperſiſſent, ut ita incendio eum è medio tollerent. Cum tamen certiſſimis indiciis compertum ſit, illud à Rege ipſo, cum in finem factum eſſe, ut ſpecioſiore aliquo pretextu, cauſam mortis in eos confingeret, quos aliàs nullo jure quæſtionibus ſubjicere potuiſſet. Atq; ita reverendiſſimi, ſtrenui, & honeſtiſſimi viri, D. Matthias Zu Strengenitz, & D. Vincealius Scharenſis Epiſcopi, &

præterea

præterea sexaginta Equites aurati & veri Nobiles, aliqui etiam Consules, Senatores, & cives uno die, sine ullo judicio, ex mera tyrannide, contra datam fidem, decollati sunt. Quorum etiam cadavera, vestibus nudata, cum intertium usq; diem in foro Stokholmensi, miserabili alys spectaculo fuissent, tandem igne comburi jussit; ac etiamsi illis adhuc vivi more Christiano Confessiones suas edendi cupidi essent, tamen hoc ipsis animo prorsus malevolo denegatum est.

Eodem modo Reverendum & religiosum D. Abbatem Nyddalensem & quinq; fratres, qui tum in honorem Dei Missas celebrarant, die purificationis Mariæ, sine ullo judicio, aquis suffocari curavit, nullam aliam ob causam, quam quod durante adhuc bello, una cum aliis se Regi opposuissent.

Sex præterea ex nobilitate Suecica qui communis inter Daniam & Sueciam pacificationis nomine, fide publica & regia, & quidem vocati antea venerant, sibi-ipsi obsides constituit, eosq; in durissima vincula conjectos, tamdiu apud se detinuit, donec regnum Sueciæ sibi subjecisset.

Multos quoq; nobiles, inter quos nonnulli ex familia Ribbingia fuere, una cum ducibus pueris adhuc teneris, qui fide & clementia ipsius freti, istuc venerant, capite plexit: sicuti etiam Tonnum Erici filium, & Henrichum Stichum, una cum multis alys nobilibus in Finlandia sine ullo judicio decollari jussit.

Episcopo Finlandiæ domum & possessiones suas per violentiam ademit, ita quidem, ut ille sibi consulens, paulo pòst tempestate in mari exorta naufragio Miserabiliter perierit. Brevitatis causa multa alia prava & tyrannica facinora, in Regno Sueciæ contra Deum & omnem æquitatem ab ipso perpetrata, hic prætermittimus.

Quocirca Episcopi, Dynastæ, Prælati, Nobilitas, Civitates & reliqui regni Sueci incolæ, qui crudeles, impuras & sanguinolentas ipsius manus, vita sua incolumi effugerant, contra eum insurrexerunt, satius et honestius esse rati, potius in acie pro salute patriæ, quam domi sordis & turpissimis suppliciis innocentes excarnificatum, mori. Atque ita (nostro quidem judicio non immeritò) sumptis armis & palam Bello contra Regem suscepto Tyrannicum illius jugum excutere instituerunt.

Etiamsi igitur nos periculo corporum & fortunarum nostrarum, ipsi, post auxilium Divinum in regno Sueciæ subjugando adjumento fuerimus: tamen non nostra sed sua ipsius culpa iterum eodem regno excidit. Quocirca denuo ab eo interpellati, ut Sueci nostro auxilio ad priorem obedientiam adigerentur; ne id quidem (quamvis nullo jure aut lege teneremur) facere recusavimus, ut vel hoc modo fidelis animus & voluntas nostra, à Rege perspiceretur, quandoquidem ferè supra quam vires nostræ ferrent (cùm jam antea nostros equos, arma, naves, aurum, argentum, Clinodia & insuper nostros amicos, affines & propinquos in Suecia reliquissemus,) denuo terra mariq; magnis impensis militem & naves armare & instruere: propria corpora nostra, possessiones, pecuniam & facultates omnes impendere: & una cum ipso totam belli molem, in tertium usque annum sustinere non detrectaremus. Idq; optima spe freti, futurum ut fidelia hæc nostra servitia, tandem aliquando à regia ipsius dignitate cum clementia agnoscerentur.

Verum his omnibus non consideratis, ille interea Episcopos, Prælatos, Ecclesias, Cœnobia, Hospitalia, Sacerdotes, Matronas, virgines, Nobilitatem, cives, viatores, negociatores, & miseros denique Rusticos, immoderatis & inauditis exactionibus, vestigalibus & expilationibus oneravit.

Præterea maximam bonorum nostrorum partem, nuda cum auro & argento, ex-

actionibus extorsit, ad se translatam adhuc retinet. Monetam verò nullius momenti cupream, ex ahenis cereviſiaris usu detritis cusam in regnum intrusit, quam æquo cum argenteis & aureis monetis precio, à milite ipsius acceptare, & ut in toto regno usurparetur & valeret, coacti sumus tolerare. Cum tamen illa in finitimis regnis, nationibus & civitatibus nullius valoris esset, res nostra familiaris, cum omnibus commerciis jacerent: regnum hoc nostrum antiquum cum suis incolis omnibus suis nervis & viribus planè exhauriretur, & ad extremam egestatem & inopiam conniceretur. Et quamvis hæc quoque omnia, ut bello susceptо optatus tandem finis imponi posset, submisse toleraverimus: tamen ne hac quidem ratione quidquam apud Regem proficere potuimus, cùm ille palàm hominibus fide dignis audientibus diceret, se & corporibus & fortunis imminutos ita nos debilitaturum, ut passim omnibus contumeliæ & ludibrio essemus. Cujus sui propositi statim etiam exemplum reipsa nobis exhibuit.

Archiepiscopum enim Lundensem D. Georgium Schotburgum, quem secretarium quondam suum hac spe ad dignitatis illius fastigium rex evexerat, ut quædam Archiepiscopatus illius prædia ad se transferre posset; cùm regis cupiditati postea non gratificaretur, quod diceret, juramento se illi ecclesiæ præstito, quod violari à se minimè deceret, prohiberi: seque potius turpissimam mortem obire, aut vitæ monasticæ etiam durissimæ in reliquum vitæ tempus mancipare se velle, quàm in perjurii suspicionem vel minimam se conjicere. Cùm igitur aliquot pœnarum, quæ innocenti irrogabantur, optio illi concederetur; ad vitam tandem monasticam à rege compulsus est. Quo facto, statim Prælatos & Canonicos ecclesiæ Lundensis per literas ad se accersivit, cumque illi præstita obedientia comparuissent: jussit eos contra fidem regiam, in infamem & fœtentem carcerem compingi, iisdemque paulò post insulam Borneholman, Eccleſiæ illi Lundensi subjectam & propriam, cum omnibus arcibus, oppidis & vicis, nullius excusationis ratione habita, vi metuque coactis, ademit.

Reverendissimus quoque Iohannes Episcopus Fyoniæ, cùm literis regiis ad juridicam vocatus comparuisset; eodem modo miserabiliter, & præter omnem culpam captus, & in carcerem conjectus est, & omni collegii illius ecclesiæ bona petulanter ad se transtulit.

Nemo etiam vel ex Senatoribus regni, vel aliis Daniæ incolis sine corporis & vitæ suæ periculo ipsum convenire: aut si quis omnino fortunam suam hac in parte periclitari institueret; nequaquam id, nisi prius peccata sua sacerdoti confessus esset, & ad mortem se præparasset, tentare ausus est, cùm sæpenumero in eas angustias coactos nonnullos constaret, ut ne confitendi quidem spacium illis concederetur. Ex quo ipso hoc quoque consecutum est, ut regno huic, & communi patriæ nostræ, consilio & consolatione nostra auxilioque esse non possemus. Eodem Præpositum Rotschildensem, & D. Nicolaum Erici, multosque alios prælatos & viros ecclesiasticos, qui patri & matri ipsius laudatæ memoriæ fideliter inservierant, absq; ulla misericordia, bonis suis spoliavit.

Politico quoque & equestri ordini, reliquisque regni inquilinis nequaquam pepercit. Mandato enim ipsius, vir strenuus & nobilis, Magnus Tamassenus, qui toto vitæ suæ tempore, ab omnibus habitus est homo integer & probus, & quem nemo unquam quidpiam, quod honestum & nobilem virum non deceret, gerere aut facere animadvertit; quique etiam in fide Christiana piè mortuus erat, hic inquam Tamassenus, ex terra iterum effossus est, ipsiusque cadaver, in foro Arhusiano, in singulare Daniæ nobilitatis ludibrium & contumeliam, suspensum est. & insuper Rex omnia illius, viduæque ipsius relicta, bona, cum omni auro, argento, & clinodiis, sine ulla postulatione judiciali, ad se & in suam potestatem redegit.

Strenuo

Strenuo quoque D. Inggoni Krabbio, equiti aurato & Mareſcalco, qui ipſi longo tempore in Dania, Norwegia, & Suecia honeſtè & fideliter, etiam cum effuſione ſanguinis, & bonorum ſuorum jactura inſervierat, unum ex pagis ſuis Viſchbecum novum unà cum multis ad eum pertinentibus fundis & bonis, aperta vi, & contra religionem jurisjurandi, ademit, & ſibi vindicavit, cùm interea ille multis modis ad legitimam cauſæ cognitionem, ſed tamen fruſtra, provocaverat.

Cùm ex miniſtris ipſius aulicis Nicolaus Daa, quodam veſperi in caupona & ſympoſio ſedens, hoſpiti ex feneſtra rhombos aliquot vitreos fortuitò excuſſiſſet; & tamen eo nomine ſtatim ſequenti die hoſpiti pro tantillo damno abundè ſatisfeciſſet: nihilominus tamen, ob cauſam tam nihili, pater ipſius in arcem Hafnienſem violenter abductus, & tamdiu captivus eſt detentus, donec præfectus regius miſſis in domum ejus ſatellitibus, omnes ipſius ciſtas aperuiſſet, omne aurum & argentum inde exemiſſet, & ad quatuor Marcarum Danicarum millia vi metuque illi extorſiſſet.

Quinetiam contra juramentum & dotam fidem, **Schlos Gelauben** *Jus electionis, quod antea ſenatus regni propium erat, poſt mortem ad ſuos hæredes tranſtulit, quo ipſo antiquum noſtrum & liberum regnum, hæreditariæ oppreſſioni ſubjicitur, & nos libera noſtra electione ſpoliati ſumus.*

Quid, quod à quolibet, etiam pauperrimo hujus regni incola, binos in ſingulos annos florenos, in perpetuum deinceps numerandos, auſus eſt exigere, cum tamen multi ex iis, vix binos ſolidos ſuis dominis quotannis exſolvere poſſent.

Nec tantum Danicæ nobilitatis excidio, animus ipſius ſangainarius ſatiari non potuit, ſed in Germanos etiam nobiles ingratitudinem effunderet. Honeſtum enim virum Stephanum Weberſtedium, in Turingia loco equeſtri natum, qui longo tempore, ſicuti Miniſtrum fidelem & nobilem decet, pro ſupremo Capitaneo peditum Danorum contra Suecos ipſi inſervierat, & qui præclara fortitudinis ſuæ ſpecimina, cum Hoſte uſq; ad ſanguinis effuſionem dimicans, ediderat, cui etiam hoc nomine præfecturam Olandenſem datis literis conceſſerat. Hunc inquam Stephanum, cum diutius præfectura illa carere nollet, ex aſylo Cœnobij Sp. S. ab ipſius avo fundati abreptum, decollari juſſit, hoc prætextu, quod in domo publica militi cuidam vulnus inflixiſſet, cum quo tamen ille, amica tranſactione interveniente, jampridem in gratiam redierat.

Eodem modo cum conjugis ſuæ regia cubulario Maximiliano egit, qui reginam in regnum Dania advenientem comitatus fuerat: eum enim cum Regina ad Cæſaream Majeſtatem, & Dominam Margaretam, ablegaſſet, Rex antequam Dania exceſſiſſet, exitinere retrahi, & capitali ſupplicio affici juſſit.

Adhæc cum fortiſſimus ipſius capitaneus **N. von Peterſtorff**, *nomine præſidiariorum Stokholmenſium, honeſtos aliquot milites, pro ſtipendio ſuo, & quibuſdam aliis conficiendis, Haffniam miſiſſet; præfectus Haffnienſis eo exceptos Abrumſtorpum deduxit, quaſi regem ibidem inventuri eſſent. Eò autem cum veniſſet, loci præfectus, eos carceri mancipatos, paulo poſt ſine ullo judicio, una cùm puero quopiam trucidari juſſit.*

Suum quoq; Germanicum Secretarium Stephanum Hopferſteinerum, cujus opera in graviſſimis negociis apud Cæſaream Majeſt. Electores & principes Imperij Romani, uſus fuerat, ad impudentiſſimæ mulieris Sybyllæ mendacem delationem, ſæviter perſecutus, ipſius vita & bonis inſidiatus eſt. Qui tamen evidentiſſimo Dei omnipotentis auxilio, manus ipſius cruentas ex Dania evaſit, & in Cæſaream urbem Lubecam confugit, ubi nihilominus à Miniſtro Regio, ejus veſtigia inſequente, accuſatus, & in cuſtodia

aliquandiu

aliquandiu detentus fuit, donec tandem causa probè cognita, ab injusta ejus accusatione & insimulatione, per sententiam absolutus est.

Praterea à multas quoque exteras nationes, Hollandos, Brabantos, Flandros, Lubecenses, cum omnibus civitatibus maritimis, contra data privilegia, & regia diplomata pecuniis suis emunxit, & quotiescunque illi negociorum suorum causa in hoc regnum appulerunt, statim navibus & mercibus suis spoliati sunt.

Et quamvis Norvvegia quoque regnum semper, ipsi fideliter fuerit subjectum, & pro viribus omnia sua officia & auxilia præstuerit, et ejusque omnibus edictis & interdictis cum obsequio paruerit: tamen neq Deo consecrati Episcopi, neque Nobilitas neque populus illius inclementem & immisericordem animum effugere potuit. Episcopus enim Camerensis, licet innocens, in crudeli admodum carcere captivus est detentus, ita quidem, ut ex fœtido & impuro aëre, curis diuturnaque sessione, omnibus suis viribus consumptis, tandem carcere liberatus, mox diem suum obierit.

Reverendissimus quoque Episcopus Anslocnsis, Andreas eo compulsus est, ut alteri suum Episcopatum cederet: quod si facere recusaret, submersionem illi minabatur.

Reverendissimum quoque Archiepiscopum Nidrosiensem ab Ecclesia sua Archiepiscopali in exilium expulit, qui postea Romam ad Papam confugiens, ibidem in magna inopia & miseria mortuus est.

Nobilitati quoque ejus regni nequaquam pepercit, strenuum enim & præstantissimum equitem auratum, Canutum, Canuti fido & mentito quodam pratextu, in carcerem redegit. Cumque ille in jus provocaretur, & causa in senatu regni cognita & disceptata absolutus esset: tamen jure suo, à Deo & æquitate sibi concesso, uti non potuit, cum paulò post miserimè decollaretur, & omnia ejus bona, contra omne jus à rege abriperentur.

Etiamsi verò multò plura ipsius impia & tyrannica facinora, & inprimis cum honestis matronis & virginibus, viduis & orphanis passim in Dania, Suecia, Norvvegia perpetrata, indicare possemus: tamen illa ipsa, respectu nominis & dignitatis regiæ habito, hoc quidem tempore, in nostra hac querela commemorare non volumus.

Semper equidem speraveramus futurum, ut crebris, fidelibus & submissis admonitionibus adductus, sese emendaret, & ab hujusmodi minimè regiis aut Christianis, sed potius tyrannicis inceptis, facinoribus, expilationibus, vectigalibus, exactionibus, aliisque crudelibus institutis desisteret: sed tamen admonitiones hæ nostræ planè infructuosæ aures regias personuerunt: nostræ sententiæ & consilia planè sunt repudiata, nulli ex senatu regni locus apud regem fuit relictus, imò homines planè contempti & ad nullam rem idonei habiti & reputati sumus. Atq; ita ille in priori sua tyrannide, seipsum induravit.

Et ut omnino crudeli suo erga nos animo & voluntati satisfieret, milites peregrinos magno numero, tam pedites quam equites, contra præstitum juramentum, quod ex superioribus articulis patet, in regnum induxit, & majoribus adhuc quàm antehac factum est, oneribus & exactionibus nos gravare instituit. Cum autem id non injuria nobis grave esset, hoc tentatum est, ut nos una cum miseris rusticis, (qui tamen ipsi tempore belli septennalis penè omnem substantiam nostram impenderamus) vi ad illas præstandas adigeret. Quocirca missis literis tanquam ad juredicam Ahusium nos evocavit, eo consilio, ut nos vi militis externi (si modò is ad tam impium facinus à rege perduci potuisset) adoriretur, & pro libitu suo imperata facere cogeret. Compertum etiam nobis est, Regem ad diem præstitutam duorum immanium carnificum, more suorum

satellitum

satellitum (ne scilicet res innotesceret) vestitorum operam conduxisse, in eum finem, si intolerabilibus ipsius edictis & voluntati non assentiremur, ut tum in corpora & fortunas nostras impetum faceret, & forte non aliud quàm in Suecia, Dynastis, Episcopis, prælatis, nobilitati & civitatibus factum est, covivium nobis adornaret.

Quapropter justissimo (qui etiam in fortissimos viros cadere potest) metu compulsi fuimus, ut de tantis malis à nobis avertendis cogitationem aliquam susciperemus, atque ita nostra corpora, vitam & possessiones (quod jure naturæ facere tenemur) defenderemus. Compulsi igitur fuimus, ut nostra juramenta, homagia & auxilia militaria per literas illi renunciaremus, id quod, etiam reipsa à nobis jam factum est, cum plane confideremus, neminem fore, qui impiis tyrannicis ipsius delictis consideratis, vitio hoc vertere nobis posset. Nos enim status & consiliarios regni Danici, coram Deo & hominibus obligatos agnoscimus, ut communi patriæ, in extremis hisce periculis & angustiis, consolationem aliquam offeramus. Siquidem miserorum ejus regni inquilinorum eterna, ratione corporum & bonorum, pernicies, matronarumque & virginum dedecus & contumelia potissimum ab eo queritur, à quo illa omnia meritò averti à nobis debebant. *Neque ignotum est, propter similia, aut sæpè etiam leviora quàm nos (proh dolor) perpessi sumus facinora tyrannica, sæpenumero Cæsares Romanos, Reges Ungariæ, Bohemiæ, Angliæ, & Scotiæ, ex suis imperiis & regnis dejectos, nonnullos principes ex ditionibus suis hæreditariis expulsos esse, sicuti id tam ex veteribus historiis, quàm ex nostræ ætatis exemplis satis certo nobis innotuit. Et nisi gravissimus hisce, quæ hactenus commemoravimus, oneribus impelleremur, pigeret & taderet nos, talem aliquam cogitationem in nostrum animum inducere, multo minus reipsa eam exequi, sed potius sicuti patri & avo ipsius, ita ipsi quoque libenter addicti fuissemus.* Nota.

Etiamsi verò ab electione externi alicujus & Christiani Regis aut Domini cujus potentia & defensione regnum nostrum gubernaretur non plane fuimus alieni: tamen considerato diuturno & Christiano regimine, regiis virtutibus, clementia, bonitate & justitia, quibus & illust. iss. princeps & Dominus, D. Fridericus, verus hæres Norwegiæ, Dux Slesvici, Holsatiæ, Stormariæ & Dietmarsiæ, Comes Oldenburgi & Delmenhorsti, erga Subditos suos statim à gubernationis suæ exordio pie & laudabiliter usus est: eum potissimum unanimi consensu regem & Dominum nostrum supra totam Daniam elegimus, cum nimirum cogitaremus, eum ex inclyta regum Daniæ prosapia originem ducere, & præterea regis filium natum esse, atque ita jure præ omnibus aliis principibus hunc honorem ipsi, præsertim cum patrimonium quoque ex regno paterno suæ Celsitudini debitum, ne nunc quidem accepisset, deberi.

Rogamus igitur unumquemque, cujuscunque conditionis aut ordinis sit, si fortè suprà dictus Rex Christiernus, aut alius quispiam nomine ipsius, vel Scriptis vel alio modo, nos insimulet, quod contra datam fidem & juramenta hac in parte egerimus, ut illi, antequam ulteriorem nostram defensionem audiat, fidem non habeat, sed potius nostras hisce difficultates, corporis & vitæ pericula, impias viduarum & pupillarum oppressiones, matronarum & virginum violationes, cum clementi, christiana, benevola & humana commiseratione cognoscat, & nos (qui honorem & existimationem nostram, ut pios nobiles decet, erga regem illæsam adhuc conservavimus) excusatos habeat. Simulque aliis quoque omnibus & singulis, ob causas jam suprà dictas, & alias emergentes (quas adhuc in honorem nominis regii usque ad ulteriores nostras apologias reticemus) benignè nos excuset. Si etiam rex coram legitimo aliquo judice nos accusandos esse censuerit hoc ipso scripto nos ad legitimam & justam causæ hujus cognitionem & decisionem offeri-

mus; pollicemur etiam nos ita, quæ hoc modo jure decernentur & sancientur, prompto animo parituros esse. Neque dubitamus, si vel sanctitas Pontificia, vel Rom. Cæsarea Majestas, & Iudicium Cameræ, vel alii quoque Christiani Reges, Electores, Principes, Comites, Barones & Nobiles, vel inclytæ & liberæ Imperii civitates petitionis hujus nostrus æquitatem, & ipsius impiam & Tyrannicam nostri oppressionem cognoverint, quin factum hoc nostrum, ad quod extrema necessitas nos compulit, nequaquam sint improbaturi. *Pro quo ipso singulis, pro ratione ordinis & conditionis suæ, nostra studia, officia, & gratitudinem, omni tempore præstandam, deferimus & pollicemur.*

Swethland.

NOt to mention the Kings and Kingdom of *Norway*, long since incorporated into *Denmarke*, whose lives and Catalogue you may reade in * *Munster*, *Ioannis Magnus*, *Crantzius*, and others: * in which Realme not one King anciently died of age or diseases in above one hundred yeers, but of violent deaths; there being this custom, *That whosoever slew a tyrant King, was thereby made a King.* The Kings of *Swethland* have alwayes been elected upon certaine conditions, and subordinate to the power and censures of their whole States and Parliament, in such sort as the Kings of *Hungary*, *Bohemia*, *Poland*, and *Denmarke* have beene; and oft times this Kingdome hath beene annexed to the Realme of *Denmarke*, and subject to the Danish Kings, as they saw occasion: The names and lives of the Swedish Kings before and since their conversion to Christianity, you may reade at large in * *Munster*, *Ioannis Magnus*, *Crantzius*, *Olaus Magnus*, and others: I shall give you a taste onely of some of them out of those Authors. *Halsten*, and *Animander* his successor were thrust out of their Thrones and Realms by their Subjects. After whose death, the Swedes elected one King of their owne Nation, the Gothes another, not enduring a forraign Prince to reigne over them. King *Bugerius* slaying his brother *Ericus*, who had imprisoned him at a banquet, his Nobles detesting this his treacherous act, rose up in Armes against him, expelled him the Realme, and beheaded his Queen and *Magnus* his son, electing *Magnus* the son of *Ericus* for their King. *Magnus* the seventh, betrothed his son *Aquin* to a kinswoman of the Earle of *Holstain* upon this condition, That unlesse *Aquin* should receive her a Virgin, all the Nobles of the Realme should be freed from their Oath of Allegeance to him. The Virgin sailing into *Swethland*, was taken prisoner by *Waldamer* King of *Denmarke*, who betrothed his daughter *Margaret* to *Aquin*: whereupon the Nobles of Sweden denied to yeeld any more obedience to their King, deserted *Magnus* and chose *Albert* King: *Magnus* seeking to regaine his Realme, was defeated in battell and died in exile. Queen *Margaret* taking *Albert* prisoner, and conquering Sweden, left it and two Kingdoms more to *Ericus* her adopted son. But the Swedes weary of a forraigne yoke, by the helpe of *Engelbert*, denied subjection to him, and waged warre so long with him, that he was forced to place Swedes in all the Castles by agreement, and to receive onely halfe the revenues of the Realme in his absence, and at last (tired out with the wars) deserted both Crowne and Kingdome. After this the Swedes elected *Charles* for their King, who after seven yeers reigne, perceiving that he grew grievous and displeasing to the

* *Cosmog. lib. 4. cap. 21, 24, 25.* * *Gul. Neubrig. lib. 2. cap. 6.*

* *Cosmog. lib. 4. cap. 28, 29, 30, 31, 32.* *Heyl. Geogr. pag. 430, 431.* *Chytræus Chron. Sax.* *Hermold. Chron. Slauorum.* *Ioannis Magnus hist. Goth. Sweuorumque.* *Guagn. compen. & Chron.*

the States of Sweden, taking his owne private goos onely with him, and leaving the treasure of the Realm in a safe place, left the Kingdome. Whereupon they elected *Christierne* the first, the King of *Denmarke* and *Norway*, for their King; against whom they took up armes, because he had broken that paction prescribed to him when he tooke the Crowne; whereupon *Anno* 1499. *Christierne* came with a great power to subdue the Swedes, but he was easily conquered, repulsed thence twice one after another by the Swedes united forces: who elected them a Governour whom they called a Marshall, which had power to call generall Assemblies of the States, and execute the Kings Office, and might have beene elected King upon such conditions as the States propounded, which he refused to submit to. King *Iohn* thinking to subdue the Swedes after *Christiernes* death, was repulsed by them, and his Queen taken prisoner. His sonne *Christierne* the second, King of *Denmarke*, by the treachery of *Gustavus* Archbishop of *Upsalis*, after many encounters, upon promise to continue their Laws, Liberties, and Priviledges inviolably, and to remit all offences past by a solemne Oath, was elected by the Swedes for their King: who swearing these Articles and confirming them by his Charter, was upon this admitted into the Towne and Castle of *Holme*; *where feasting all the Nobles and principall men of Swethland two dayes together, suspecting no treachery, he suddenly apprehends them, imprisons, murthers all the Nobles, Gentry, Citizens, Commons, yea Bishops and Monkes, with extraordinary cruelty, spoils their wives and Orphans of all their goods, and exerciseth more then barbarous tyranny over them; which *Gustavus Erichson*, a noble Swede then in *Denmarke* hearing of, escapes thence privily, and comes into *Swethland* disguised, raiseth an Army to revenge this butchery, delivers his Country from this Tyrant, and for his noble service was by their unanimous vote elected and crowned King of Sweden in his stead; the Swedes in a publike Declaration manifesting their expulsion and deprivation of *Christierne* for his treachery and tyranny to be just and lawfull. * *Ericus* the seventeenth King of *Sweden*, imprisoning his brother, murdering his faithfull Counsellours, warring upon his Subjects, playing the tyrant, and matching himselfe unworthily to a woman of meane condition, was for these his misdemeanors taken prisoner, with his Queene, *deposed, and his brother made King in his stead,* *Anno* 1599. And * *Sigismund* King of *Sweden*, taking upon him the Crowne of *Poland*, after fourteen yeers reigne, was deposed and dispossessed of his Kingdom *Anno* 1607. and *Charles* his Uncle made King in his stead.

* *Chyt. Chron. Saxo. lib.* 10. *pag.* 311.

* *Chyt. Chron. Saxo. lib.* 21, 22. *p.* 636, 637, 638, 647, 648, 649, &c.

* *Hol. Geogr. Pag.* 340.

Assyria, Cyprus, Lombardy, Naples, Venice.

I Could now acquaint you with many such like passages and stories in the Kingdomes of *Assyria*; as how effeminate * *Sardanapalus*, for his vices and mis-government was *deprived by his Subjects, burned in his Palace, and* Arbactus *made King in his stead.* In the kingdom of * *Cyprus*, where King *Peter* murthering his brother and those of *Geneva*, was soon after taken prisoner and made a tributary Prince. King *Iohn* governed by *Helena* his wife, and she by his Nurse, which made the people weary of the government, had a Regent by consent of the Nobles (*Iohn* of *Portugall*,

* *Mun. Cosm. lib.* 5. *cap.* 29.

* *Mun. Cosm. lib.* 5. *cap.* 30.

tugall, whom they married to his daughter (*Carlota*) set over him and the Realm and all the royall power soon after put into his hands, who being soon poysoned by *Helena*, *Lewes* sonne to the Duke of *Savoy* was sent for and crowned King by generall assent, and *John* and *Iames* his sons put by. * *Clephus* the second King of *Lombardy* was so cruell, that after his death they would have no more Kings, but chose thirty Dukes to governe them, who continued this government eleven yeeres. *Desiderius* the last King of *Lombardy* was taken prisoner with all his children in *Pavia* by *Charles* the great, and so that Kingdome ceased, *Anno* 774. * *Tancred* the fourth King of *Naples* was deposed by Pope *Celestine* the third, with his peoples consent. *Momfrey Bastard* poysoning *Conrade* the seventh King of *Naples*, and usurping the Crown, was deposed by *Charles* Earle of *Aniou*, who enjoyed the Crowne till *Aragon* seased on the Realme. *Joue* Queene of *Naples* married *Andrew* second sonne to *Charles* King of *Hungary*, whom she hanged at her window for insufficiency; after marrying *Iames* of *Tarragon*, she beheaded him for lying with another woman, and was at last driven out of her Kingdome by *Lewes* of *Hungary*, and hanged at the same window where she hanged her first husband. * *Peter* Duke of *Venice* was for his tyranny and misgovernment besieged in his palace by the people, which they fired, and then taking him his wife and sonne, dragged them unto the butchery, where they chopped them in pieces and threw him to the dogs to be devoured, notwithstanding all their submissions and intreaties on their knees, *Anno* 977. So Duke *Falier*, and many other Dukes, have beene condemned to death and executed by the States of *Venice*, and that justly as * *Bodine* grants. Multitudes of such like presidents occur, in most other Dukedoms and Principalities, which I will not name, because they want the title of Kings, though * *Aquinas* truly holds, *That a Kingdome is so called from ruling; therefore he who hath others under his government, is said to have a Kingdome*; in reality, though not in propriety of speech; and so are Kings in verity, though not in title. I might adde to these many more examples, manifesting what miseries and untimely deaths tyrannicall Kings and Princes have undergone in all ages and States, being commonly deposed, poysoned, murthered; but I shall for brevity passe over these examples, remitting the Readers to * *Aristotle*, * *Ælian*, and Doctor *Beard*, his Theatre of Gods Judgements, and come nearer home to *Scotland*, as having neerest relation to *England*.

* *Mach. Hist. Heyl. Geogr. p. 193, 154.*

* *Heyl. Geogr. p. 166, 167. Generall Hist. of Spaine, lib. 18. p. 686.*

* *Ioan. Crespin, L'estate de Legliſe, pag. 277.*

The Venecian History.

* *Com. lib. 2. c. 5. pag. 277.*

* *4 Distinct. 49. quest. 1. Art. 3. qu. 5.*

* *Polit. lib. 5. cap. 10, 11.*

* *Variæ hist.*

Scotland.

WHat soveraigne power and jurisdiction the Realme, Parliaments and Nobles of *Scotland* have claimed and exercised over their Kings, (who, saith *Buchanan*, can neither make Laws, Warre, Peace, nor conclude of any great affairs of the Realm without a Parliament, which hath there, and in *Hungary*, *Poland*, *Denmarke*, *Swethland*, beene oft-times summoned, not onely without, but against their Kings consents;) and how frequently they have questioned, imprisoned, censured, deposed, yea judicially sentenced their Kings for their tyrannies, oppressions, whoredoms, murders, rapines, and evill administrations, you may reade at large in *George Bucanan* (King *Iames* his owne Tutor) in his Booke, *De Iure Regni apud Scotos*,

Scotos, and his **Rerum Scoticarum Historia*. Where this their Soveraigne power is so largely vindicated, debated, demonstrated, and the chiefe objections against it cleared so abundantly, that I shall not adde one syllable to it, but present you with some Historicall examples which confirme it. *p.120,234,257 292,334,691. 704,756,747. 748.

**Fergusius* the first King of *Scotland* dying, and leaving two sons infants, unable to governe the Realme; the Scots thereupon considering what dangers might befall them both at home and abroad, during their infancy; at last concluded after much debate; and setled this for a standing law; *that when any King died leaving his son under age and unfit to governe, the next of their kinred, who should be esteemed fittest to raigne, should enjoy the Soveraigne power; and that he being dead, then the succession of the Crowne should returne to the children of the deceased King, being of age to rule*; which Law continued constantly for many hundred yeeres, untill the reigne of *Kenreth* the third. By this Law *Feritharis* brother to *Fergusius* abtained the Crowne and reigned fifteene yeeres with much justice and modesty; after which his Nephew *Ferleg* desiring to raigne, demanded his Fathers Kingdome of his Uncle, who being willing to resigne it to him, called an assembly of the estates, made an Oration in praise of *Ferleg* profered to resigne the Crowne unto him. But such was all the assemblies love to *Feritharis* and hatred to *Ferleg* for this his prepostrous affectation of the Crowne, that they detested the act, and denied the motion both with frownes and verball reprehentions: Whereupon *Ferleg* conspired his Uncles death, which being discovered, they thought him worthy of death; but for *Fergusius* his fathers sake, his life was spared, and he onely imprisoned; after which making an escape he fled first to the *Picts*, then to the *Britons*, and in the meane time *Feritharis* dying, by the treachery of *Ferleg* as was suspected, *Ferleg* by the *unanimus sentence of all was condemned and put from his Crowne*, being absent, and his brother *Mainus* created King. (*b*) *Dornadilla* the fourth King of *Scotland* dying, leaving *Reuther* his sonne under age and unfit to raigne, the people made *Notatus* his brother King; who playing the tyrant, banishing, murthering, and oppressing the people, *Donald* of *Galloway* raised an Army against him, expostulated with him for his tyranny, and wished him to resigne the Crown to *Reuther*; which he refusing to do, and justifying his tyranny; hereupon *Donald* gave him battell, slew him, and made *Reuther* King without the peoples suffrages: Upon which the Nobles being offended, (because the power of the Parliament was by this meanes abolished, and the election of the supreame Magistrate made onely by one man.) tooke up Armes both against *Ruther* and *Donald*, gave them battell twice in one day, and tooke *Ruther* their new King prisoner: who afterwards dying and leaving *There* his sonne an infant, scarce ten yeeres old, they, according to the Law formerly made and received in this case, made his unkle *Ruther* King; who after seventeene yeeres reigne voluntarily resigned his Crowne to his Nephew *There*, in whose commendation he made an Oration, the people hardly permitting it, *There* soone after growing very vitious and flagitious, slaying the Nobles, and filling the Realme with robberies, the Governours pitying the deplorable state of the Realme, resolved to punish him for it; of which he being informed, fled to the *Brittains*, where he spent his daies in contempt and ignominy, not daring to returne; *Conan* a prudent and discreet man, being elected *Viceroy* in the meane time, which office he held almost twelve yeeres till the death of *There*. In the reigne of *Finnan* the tenth King of *Scotland*, that the roots of ty-

* See *Io. Maior* hist. *Buchanan. Rerum Scot.* l. 4. p. 100, 101. *Hector Boëtius* & *Robus Scotorum Fordun* his *Scoti-chronicon*, *Polychronicon* & *Fabian*; *Matthæus Westminster*. *Holinsheds* history of *Scotland*.

(*b*) *Buchanan.* l. 4. p. 101, 102, 103, 104, 105.

tanny might be cut off, it was decreed, *That Kings should command nothing of greater moment to be done, but by the authority of the publique Councell.* *Durstus* the eleventh King, giving himselfe to all deboistnesse, first banished his fathers friends from him as the troublesome reprehenders of his pleasures; and sending for the most vitious young men to be his familiar companions, gave himselfe wholly to luxury and venery. He prostituted his wife, (daughter to the King of *Britains*) to his companions, and then banished her. At last the Nobles conspiring against him, he awaking as it were out cut of sleepe, considering that he should finde no place of safety, neither at home nor abroad, being equally hated of strangers and subjects, thought best to counterfeit repentance of his former life, for so he might retaine both his Crowne, and in time inflict punishments on his enemies. Wherefore recalling his wife from exile, he first of all endeavoured to reconcile himselfe to the Britains: then calling the chiefest of his subjects to him, he ratified with a most solemne oath the oblivion of his former courses; he committed every most wicked person to prison, as if he reserved them for punishment, and religiously promised, that *he would doe nothing hereafter, but by the advice of his Nobles.* When by these things he had given assurance of his sincere mind, he celebrated the agreement with pastimes, banquets, and other signes of publique gladnesse: and now all mens minds being taken up with joy, he called most of the Nobility to a supper; where, when he had shut them up (improvident and unarmed) in one roome, sending in his assassinates, he slew them every one. This calamity not so much terrifying as exasperating the minds of the rest with new flames of anger, they gathered a great army together, *all men conspiring to take away this detested monster*; whom they slew in battell, together with his wicked confederates. After whose slaughter, the Nobles putting by *Durstus* sonnes, lest they should imitate their fathers vices, elected his brother *Even* King with unanimous consent; who hating *Durstus* his tyranny had voluntarily banished himselfe among the *Picts*. *Even* dying, leaving a bastard sonne called *Gillo*, he procured himselfe to be elected *Viceroy* till a new King should be chosen, and got the Kingdome confirmed to him; but yet not deeming himselfe secure as long as any of *Durstus* his family remained, he treacherously slew *Durstus* his two eldest sonnes, with all his kindred and familiars: With which the Nobles being much discontented, and fearing worser things, privily raised an Army against him; who finding himself generally deserted but by a few flagicious persons, who feared punishment, *He was forced to flie in a Fisherboat into Ireland:* whereupon the Scots created *Cadvallus* their Vice-roy, and after that created *Even* their King, who conquering *Gillo* in Ireland, he was forced to fly into a Cave, where he was taken and his head cut off.

Notable Dissimulation.

*Buchan. l. 4. p. 109, 110, 111, 113, 114, 115, 116. *Grafton*, part 6. p. 70, 71, part. 7. p. 80, 81, 82, 84, 86, 87, 90.

*King *Even* the third, not content with an hundred Concubines of the Nobility, made a Law, *That it should be lawfull for every one to marry as many Wives as he could keepe; and that the King should have the mayden-head of Noble women, and the Nobles of the Plebeans before they were married; and that the common peoples Wives should be common for the Nobles.* Besides, luxury, cruelty and avarice were the companions of this his flagitious life; he murthering the rich to get their wealth, and favouring theeves to share in their robberies: whereupon the Nobles and people conspiring against him and taking up Armes, he discerned how unfaithfull the society of ill men is; for being deserted by his party as soone as the battell began, he

he came alive into his enemies hands, *and was committed to perpetuall prison, his life being spared by the intercession of Caradan*, who was made Vice-roy in his stead; but soone after he was strangled in the prison by one whom he had formerly injured. King *Corbreds* sonne being within age at his death, the Assembly of the States made *Dardan* King, who within three yeeres space rushing into all kind of vices, banished all prudent and honest men out of his Court, kept none but flatterers about him, slew *Cardorus*, and divers others vertuous men who advertised him of his faults; and to take away the feare of succession, plotted the death of *Corbred*, *Galdus*, and others: whereupon the Nobles and people by *unanimous consent rose up against him, slew his evill instruments, routed his Forces, tooke him prisoner, whilst he was about to murder himselfe, cut off his head (which they carried about for a laughing-stocke) and threw his corps into a jakes, after he had raigned foure yeeres.* *Lullacke* the 22 King of Scots, giving himselfe wholly to Wine and Harlots, sparing the chastity of none though never so neere allied to him, nor their husbands never so great, *deflowring his owne Sisters, Aunts, Daughters*, joyning inhumane cruelty and insatiable avarice to his lust, and depraving the youth of the Country corrupted by his example, when as no man durst resist him; was at last *convented before an Assembly of the chiefe men; where being more freely reprehended for those crimes, he commanded the chiefe of them to be drawne away to punishment, as seditious, calling them old doting fooles. Whereupon the people assembling together, slew both him and the instruments of his wickednesses*, when he had scarce reigned three yeeres space. *Mogaldus* was elected King in his place, who carefully reforming all the abuses and corruptions of *Lullack* in the beginning of his reigne; yet fell at last unto them in his old age, and grew so odious by his vices, to the Nobles and common people, that they weary of him, *rose up against him; he being unable to resist them, wandred up & down with one or two Companions, in secret places, seeking to escape by flight; but was at last taken and slaine.* *Conarus* his sonne and successor giving himselfe to all manner of luxurie, and lust, brought the Realme in short time to great penury; giving Lands and riches to most vile and naughty persons, because they favoured his corrupt living, and invented new exactions upon his people. Whereupon summoning a Parliament, he demanded a *Tribute of them to support his State and Court in Honour*; who taking time to deliberate, and understanding at last, that this his hunting after money proceeded not from his Nobles, but from the inventions of Court-flatterers, they resolved to commit the King to ward, as unfit to governe, untill he renouncing the Crowne, they should elect another King. Whereupon the next day, he who was first demanded his opinion, Declaimed sharply against the Kings former life, his bauds and companions, as unprofitable in warre, troublesome in peace, full of shame and disgrace: shewed, that the Kings revenues were sufficient to maintain him if he lived within compasse; that the rest might be supplied out of the estates and by the death of those on whom he had bestowed the publique patrimony; and that the King in the meane time should be committed to custody, as unfit to rule, till they elected another, who might teach others by his example to live sparingly and hardly, after their Countrey custome, and might transmit the discipline received from their ancestors to posterity. With which free speech he growing very angry, instead of pacifying their discontented minds, inflamed them more with his

cruell

cruell threatnings; whereupon the *King being laid hands on by those who stood next him was shut up in a Hall with a few attendants: his Courtiers, the authors of ill counsell were presently brought to punishment, and Argarus a Nobleman made Vice-roy till the people should meet to elect a new King*; after which *Conare* spent with griefe and sicknesse, *died in prison*. King *Ethodius* his sonne being an infant his brother *Tetrasell* was chosen King, who murthering his nephew, cutting off divers of the Nobles, and spoyling the common people, to establish the Kingdome in himselfe, he grew *so odious and so much diminish'd his authority in a short time, that he stirred up divers seditions; which he not daring to goe abroad to suppresse, being generally hated, was at last strangled by his own followers in the night, in his own House*. *Ethodius* the 2. being a stupid man, and of a duller wit then was suitable to the government of so fierce a people, the Nobles hereupon assembling together out of their respect to the family of *Fergusius*, would not wholy deprive him of the name of a King, though he were slothfull: being guilty of no crime, but *assigned Him governours* to execute Justice in every County: *at last he was slain in a tumult of his familiars*. King *Athirco* his sonne degenerating from his former vertues, and growing extreamely covetous, angry, luxurious, loathfull, and leaving the company of all good men, was not ashamed to goe openly in the sight of the people playing upon a Flute, and rejoycing more to be a Fidler, then a Prince; whereby he became very odious to the people: at last ravishing the daughters of *Nathalocus* a Noble man, and then whipping and prostituting them to his lewd companions lusts; thereupon the Nobles rising up in Armes against him, when he *had in vain endavoured to defend himself by force, being generally deserted by his own people, who hated him for his wickednesse, he murthered himself*, and his brother *Donus* was enforced to flie with his little ones to the *Picts* to save his life. *Nathalicke* succeeded in his Realme, governing it ill by indigent ordinary persons, who would attempt any wickednesse, and treacherously strangling divers of the Nobility, who were opposites to him, in the prison to which he commitsed them, to establish his Kingdome; thereupon their friends with others, *being more enraged against him, raised an Army to suppresse him*; which whiles he endeavoured to resist *he was slain by one of his own servants*, or as some say, by a *Sorceresse* with whom he consulted to know his end. King *Findocke* being treacherously slain through the conspiracy of *Carantius* his second brother, *Donald* his third brother was elected King. *Donald* of the Iles, usurping the Realme by violence, so farre oppressed the people by ill officers and discords raised amongst them, that he durst seldome stirre abroad; he never laughed but when he heard of the *discord and slaughter of his Nobles*: for which he was at last surprised and slaine by *Crathilinthus*, who was unanimously elected King, and slew all the tyrants children. After the death of *Fircormarch* there were great divisions and warres for the Crowne between *Romach* and *Angusian*, two brethren; *Ramach* at last conquering his brother and chasing him into Ireland, gained the Crown rather by force, then love of the people; which to preserve, he shewed himselfe very cruell to the adverse party, reduced capitall causes to his owne arbitrement, and putting many to death, strucke a generall feare in all good men: Upon this he grew so generally odious to all estates, that they *conspired against, and suppressed him* before he could collect his Forces; *and cutting off his head, carried it about on a Poll, as a joyfull spectacle to the people*.

* *Constan-*

[k] *Constantine* the first, of *Scotland*, as soone as he obtained the Crowne, loosed the reines to all Vices: he was cruell and coveteous towards his Nobles, kept company with men of the basest Ranke; gave himselfe onely to the rapes of maides, matrons, and immoderate feasts, having fidlers, Stage-players, and ministers of all sorts of pleasures almost about him: with which vices the Nobles of *Scotland* being offended, admonished him of his duty. But he proudly contemning them, wished them to looke after other matters, saying, he had councell enough from others, and that they should lay aside their faise hope, that they could reclaime the King by their Councell. On the contrary he was of so poore a dejected Spirit towards his enemies, that he not onely granted them peace, but remitted them injuries, and restored them Castles as soone as they demanded them. Which caused the *Picts* and *Scots* to consult together to depose him by force of Armes; from which *Douglasse* disswaded them for the present, by reason of their forraigne wars with the *Britans* and *Saxons*: In the end, he was slaine for ravishing a Noblemans daughter in the 15. yeare of his Raigne. King *Goran* was slaine by the people for favouring *Tower* chiefe Inquisitor or judge of capitall causes, who much oppressed the people; his children being young, *Hugonius* succeeded to the Crown; and afterwards his brothers *Congalus* and *Kumatel*, after whom *Araan* the sonne of King *Goran* reigned. *Ferquhard* the 52 King of *Scots* a craftie man, desiring to turne the Kingdome into a tyrannie, nourished great divisions among the Nobles; but they discovering his malice privily enter into an accord among themselves, and calling a Parliament, sommoned him thereunto: who refusing to appeare, keeping within his Castle; they thereupon tooke it by force, and brought him to judgement against his will; where many and grievous crimes, among others, his cruelty and negligence in the affaires of the Common-wealth; the *Pelagian* Heresie, with contempt of Baptisme, and the other Sacraments, were objected against him; of none whereof he being able sufficiently to purge himselfe, was cast into prison; where, out of shame and sorrow, he slew himselfe. *Ferquhard* the second, a man polluted with all kinde of wickednesse, an unsatiable detester of wine and money, inhumanely cruell towards men, and impious towards God, when he had every where vexed others with cruelty and rapines at last turned his fury against his owne, slaying his owne wife, and ravishing his owne daughters: for which wickednesses he was excommunicated: but the Nobles willing to assemble together to punish him, were disswaded by holy Bishop *Conan*, who told the King openly, *that some Devine judgement would shortly seize upon him*, which fell out accordingly, for falling into a Feaver, and not abstaining from his intemperance, he was eaten up of lice. *Maldwin* 55. King of *Scotland* was strangled by his Queene, for suspition of Adultery with an Harlot; for which fact she her selfe was burned 4 dayes after. *Amberkelethus* a vicious wicked king, was slain by one of his own men, with an arrow in the night, when he was marching against the *Picts*: whereupon, lest the Army should be dissolved or left without a Generall, *Eugenius* the 7th was presently chosen King in the Tents: who making peace with the *Picts*, his wife being slaine in his bed by two conspirators who sought his life, the king being suspected of this murther was thereupon imprisoned; but before his triall set at liberty, by the apprehension of the Murtherers. King *Eugenius* the 8th, rushing into all Vices, and neither regarding the admonitions of his Nobles or Clergie, *was for his filthy*

[k] *Buch* l. 5. p. 140. 147. 156. 160. 170. *Grafton* part. 7 p. 94. 125.

Grafton part. 7. p. 125. 126. 130. 131. *Buch* l. 5. p. 162. 163. 165. 166. 171. 175. 176. 183. 184. 185. 187. 188. 189. 196. 197. 198. &c. 201.

ments,

luſts, covetouſneſſe, and cruelty, ſlaine in the aſſembly of his Lords by their generall conſent, and his companions in wickedneſſe and villany hanged, which was a grateſull ſpectacle to the people. *Ferguſius* the third ſucceeded him both in his Crowne and Vices; he was a foule drunken glutton, and ſo outragiouſly given to Harlots, that he neglected his owne wife, and brought her to ſuch poverty, that ſhe was forced to ſerve other Noble women for her living; wherefore to expiate this diſgrace, ſhe murthered him in his bed, and afterwards ſlew her ſelfe alſo. *Donald* the 70 King of *Scotland*, gave himſelfe wholy to his pleaſures, keeping none but Hunters, Hawkers, and inventors of new luſts about him, on whom he ſpent the revenues of the Realme, by which he corrupted the youth of the kingdome: which the ancients of the Realme diſcerning, aſſembled and went to the King, admoniſhing him of his duty; which he notwithſtanding neglected, till the wars rouſed him up. Which being ended, he returned to his priſtine courſes; Whereupon the Nobles fearing, leſt this filthy and ſloathfull man, who would neither be amended by the councels of his friends, nor calamities of his people, ſhould loſe the remainder of the Kingdome which was left, caſt him into priſon; where for griefe of his inhibited pleaſures, or feare of publike ſhame, he layd violent hands upon himſelfe. *Conſtantine* the ſecond was inhibited by his Senators to make war before he had reformed the corrupted youth of the Realme by good Lawes; after which he was ſlaine in battle by the *Danes*. King *Ethus* his brother and ſucceſſor polluting himſelfe with all vices, and drawing all the youth of the Country (prone to wickednеſſe) with him, he was thereupon ſeiſed on by the Nobles; who making a long Oration to the people, wherein they related the wickednеſſes of his whole life, he was forced to renounce his right in the kingdome, and dyed in priſon of griefe, within three days after. *Gregory* being made King in his ſtead. *Conſtantine* the third turning Monke, *Malchombe* was elected king, who was ſlaine by the conſpiracie of theeves; whoſe ſonne *Duffus* being an infant, *Indulfus* enjoyed the Crowne; to whom *Duffus* ſucceeding, was murthered by *Donald*: whereupon a Parliament was aſſembled to chuſe a new King, which elected *Culenus*: who at laſt degenerating into all licentiouſneſſe, raviſhed Virgins, Nunnes, yea his owne ſiſters and daughters, and ſet up a kinde of publicke ſtewes. For which being reprehended by the Nobles, he excuſed part by reaſon of his youth, part by reaſon of feare, and acknowledgeing his ſorrow for the reſidue, promiſed amendment. But he not reforming upon their admonitions, they departed from Court, that they might neither be witneſſes nor partakers of his vices: The king freed of their troubleſome company gave himſelfe wholy to feaſting and venery, ſpending nights and dayes in diſhoneſt ſports and pleaſures with his diſſolute companions; and to maintaine his luxurie, he pillaged and oppreſſed his Subjects, eſpecially thoſe who were rich; and by his diſorders fell into a grievous ſickneſſe, which made him a deformed carcaſſe, fit for nothing but to ſuffer the penalties of his vitious life, his Courtiers and companions ſpoyling the people every where in the meane time. Whereupon the Nobles were enforced to ſummon a Parliament at *Scone*, where the king was commanded to be preſent, that together with the reſt he might conſult how to provide for the publicke ſafety in this precipitate State of things: with which ſommons being awaked, he began to conſult with his companions, what was beſt to be done for his owne ſafety in theſe exigents: being unable to

reſiſt:

reſiſt or flee, he reſolved to goe to the Parliament, hoping to finde ſome mercy there for his good fathers ſake, to preſerve him from falling into extreame miſery; but in his way thither he was ſlaine by the Thane of the Country for his violent raviſhment of his daughter; his death was acceptable to all, becauſe it freed them of ſuch a monſter with leſſe labour then they expected: and *Kenneth* the third was made King in his place: who poyſoning his Nephew *Malcolme*, heire to the crown after his deceaſe, to ſettle it on his own poſteritie, he cauſed the Lords in Parliament to repeale the ancient Law whereby the Crown diſcended to the next of kin during the minority of the right heire; and to enact, that *the ſonne ſhould ſucceed thenceforth inherite the crowne next after his father, though a Minor, that the Realme during his Minority ſhould be governed by a Viceroy elected by the Parliament and Nobles till he came to 14 yeeres of age; and after that by a Gardian elected by himſelfe; that if the Kings eldeſt ſonne dyed leaving iſſue, the iſſue ſhould inherit, before the ſecond brother, &c.* After which, the King generally hated for the poyſoning of *Malcolme*, was ſlaine by the practiſe and command of *Fenella*. He thus cut off *Conſtantine* ſurnamed the bald, ſonne of *Culen*, pretending the new Law concerning the diſcent of the Crowne to be unjuſt, obtained by force, and contrary both to the publicke liberty and ſafety; to wit, that an infant (commonly governed by a woman) being unable to governe, or repulſe an enemy in times of danger, yea a curſe of God upon a Realme, and therefore not to be endured or ſetled by a Law, eſpecially in thoſe time of warre, when they had ſo many enemies) ſhould be preferred before a Kinſman of full age, fit to raigne; ſo ambitiouſly ſought the Crowne and made ſo many friends, that he procured himſelfe to be proclaimed King at *Scone*; which *Malcolme* ſonne of *Kenneth* (for whoſe ſake this new Law was enacted) underſtanding, preſently raiſed all the Forces he could, which being conducted by his brother *Kenneth*, *Conſtantine* and he in the ſecond encounter were both ſlaine one of another. After whoſe death *Grame* the ſonne of *Duffus* uſurping the Crowne, when he and *Malcolme* were ready to encounter with their Armes, this agreement was made betweene them by *Forthred* a Biſhop, that *Grame* ſhould retaine the Kingdome, and the new Law of ſucceſſion be ſuſpended during his life; and *Malcolme* ſucceede him after his death. After which *Grame* giving himſelfe to all diſſoluteneſſe, covetouſneſſe and oppreſſion, and warring upon thoſe Nobles and Councellors, who adviſed him to reforme his evill courſes, with greater cruelty than any forraigne enemie, deſtroying both men, townes, cattle, fields, and making all a common prey; hereupon they called in *Malcolme* out of *Northumberland* to aſſiſt them, who encountring *Grame*, on Aſcention day, tooke him priſoner, being deſerted of his people, wounded in the head, and then put out his eyes; who ſoone after dying of ſorrow and his wounds; *Malcholme* thereupon ſummoned a Parliament at *Scone*, and would not taketh Crown till the Law concerning the ſucceſſion made in his fathers raigne, was ratified by all their conſents: againſt which *Lawy Buchanan* exceedingly inveighs in the beginning of his ſeventh Booke, as the occaſion and increaſe of all thoſe miſchiefes both to King and Kingdome, which it was purpoſely made to prevent. This *Malcolme*, after he had raigned long victoriouſly with much honour, in his declining age, growing very covetous, tooke away the lands he had formerly given to his Nobles for their good ſervice in the wars, and puniſhed divers of the wealthieſt men ſo

severely, that he brought many of them to death, others to extreame poverty; which injuries lost him all his love, honour, and so farre exasperated the people *that partly out of revenge, partly to prevent further oppressions and to provide for their owne securitie*, corrupting his servants with money, they sent their agents into his chamber in the night, and slew him. Not to mention the murther of King [m] *Duncan* by *Macbbed*, who usurped his Crowne through his pusillanimity; this *Macbbed*, omitting no kind of libidinousnesse, cruelty, and tyrannizing over the people for 18. yeares space together, trusting to the predictions of certaine wisards, *that he should never be overcome till Bernane wood did come to Dunsinane Castle, and that he should never be slaine by any man borne of a woman.* At last *Mackduffe* governour of *Fiffe* joyning himselfe to some few patriots who had escaped this Tyrants sword, met at *Bernane* wood, and early in the morning every man bearing a bough in his hand, the better to keepe them from discovery, tooke *Dunsinane* Castle by scalado: whence *Macbbed* escaping was pursued, overtaken, and urged to fight by *Mackduffe*, to whom the Tyrant replyed in scorne, that in vaine hee attempted his death, for it was his destinie never to be slaine by any man borne of a woman: *Now then* said Mackduffe, *is thy fatall houre come, for I never was borne of a woman, but violently cut out of my mothers wombe, she dying before I was borne*; which words so daunted the Tyrant, though otherwise valiant, that he was easily slaine, and *Malcolme Conmer* the true heire of the Crowne, seated in the Throne. King *Donald* being odious and cruell to his subjects, they sent for *Duncan Malcombes* bastard, who expelled him the Realme, and was created King in his steed; who proving harsh, cruell, and Imperious to his Subjects, fell into their hatred, and was beheaded in the night by *Marpender* Earle of *Murry*, corrupted with money by *Donald* to murther him. *Donald* permitting the Isles to be taken and possessed by *Magnus* King of *Norway*, and suffering his Realme to be wasted by a secret agreement; thereupon the Scots sent for *Edgar Malcombes* sonne, *to take possession of the Crowne*, who entring into *Scotland* with small forces, *Donald* being deserted by his people, *betooke himselfe to flight, but being apprehended and brought backe to Edgar, he was cast into prison, and not long after dyed.* King *Malcolme* the fourth, at a Parliament at *Yorke* parting with divers of his Crowne-lands to King *Henry* without his peoples consents so farre incurred their hatred, that upon his returne *they besieged him at Barwick, and almost tooke him prisoner*, but by the mediation of some of his Councell, who informed the Nobles, *that the King was by violence & fraud circumvented by the King of England, of the ancient patrimony of the Crowne land*, they resolved to recover it by war: the Scottish Nobility affirming, *that the King had not any power to diminish or part with any lands appertaining to the Crown without all their consents in Parliament.* This King after some encounters making a peace with the *English* upon unequall termes, wherin he parted with some of his ancient territories, out of his pusilanimity, against his Nobles consent; *hereupon he grew so odious and contemptible to them, that they were all weary of his government, and caused many to take up Armes and Rebell against him.*

[n] After the death of King *Alexander* the third there was a Parliament summoned at *Scone* to consult about the creating of a new King; and the government of the Realme, during the *Inter-regnum*: where first of all they appointed six men to rule the Realme for the present, and then heard and discussed the severall Titles pretended

[m] *Buch.l.7.p. 213. to 230. Heylins Geogr. p.507. 508.*

[n] *Buch.l.8.p. 250. Walsi. g. Mat. Westm. Fabian Holin. Speed, Graft. Daniel in the life of K. Edw. the 1. Walsingham Ypodigma p.79.*

tended to the Crowne, the finall determination whereof, they referred to King *Edward* the first of *England*, as to the Supreame Soveraigne Lord of the Realme: who selecting 12. *Scottish*, and 12. *English* Councellors to assist him; After full hearing, by generall consent of all, adjudged the Crown to *John Bayliall*, husband to King *Alexanders* nighest Kinswoman: The *Scots* considering his simplicity and unaptnes to governe them, and scarce confiding in him being an Englishman, and elected by the K. of *England*, cõstituted them 12. Peers, after the manner of *France*, to wit, 4. Bishops, 4. Earles, and 4. Lords, by whose advise the King and all the affaires of the Realme, were to be governed and directed: He was taken and kept prisoner by the English. [a] After the death of *Robert Bruce*, the *Scots* before their King was crowned, created a *Vice Roy* to govern the Realme, who suppressed the theeues, and Robbers: *Edward Bailiol* sonne to *John Bayliol* succeeding *Bruce*, was afterwards rejected and deposed by the Scots, for adhereing too closely to the English & K. *Edward*, and *David Bruce* elected K in his place. *Robert* the 2d. of *Scotland* when a peace was propounded between *France*, *England*, and *Scotland* by the Pope, willingly consented thereunto, but his Nobles being against it, his assent alone was in vaine; because the King of *Scotland* alone, can make no firme peace nor truce, nor promise which shall bind, but by publike consent in Parliament. King *Robert* the 3d. dying of griefe, for the captivity and imprisonment of his Son *Iames*, taken prisoner by our King *Henry* the 4th. as he was going into *France*, the Scots hereupon appointed *Robert* his uncle, by common consent, for their *Vice-roy*, till *Iames* the (first of that name) right heire of the Cowne, were enlarged. *Iames* being freed and Crowned, summoned a Parliament, wherein an ayde was granted him to pay his ransome, with much difficulty: he had many Civill wars with his Subjects, and at last was murthered by *Robert Grame* and his confederats, from whom he received 28. wounds in his Chamber in the night, wherof he presently died. *Iames* the 2. his son, being but 7. yeares old at his death, *Alexander Leviston* was chosen Protector, and *William Crichton* made Chancellor by Parliament; Which the Earle *Douglas* storming at, committed many insolencies in a hostile manner. After which, *Alexander* and his faction opposing the Chancellor, and commanding that none should obey him, the Chancellor thereupon fortified *Edenborough* Castle, and as the King was hunting early in the morning seized upon him with a troop of Horse & brought him to *Edinburgh* Castle, where he detained him from the Protector till the peace of the Kingdom, and present divisions should be setled: which lasting very long by reason of Earle *Douglas* his ambition, power, and coveteousnes, who raised many grievous civill wars, he was at last stabbed to death by the King himselfe, *Anno* 1452. contrary to his promise of safe conduct to the Court, under the Kings and Nobles hands and seales: Wherupon his brethren and Confederats, meeting at *Sterling*, resolved to revenge his death, and tied the Kings and Nobles writing of safe conduct to an horses taile, which they led through the streets of *Sterling*, railing at the King and his Councell as they went, and when they came into the market place (where they had 500. trumpets sounding) *they by an Herald, proclaimed the King and all that were with him, fedifragus, perjured, and enemis of all good men:* and then spoiled and burned the Towne, Country, with all places else that were firme to the King; betweene whom and the kings party, a bloody civill warre (to the spoyle of the Country) continued above two yeares

[a] *Buchanan l. 9. 10. 11. 12. p. 291. 334. &c. 412. 413.*

space with various successe; till at last with much difficulty this fire was extinguished and the King casually slaine with the breaking of a Cannon: whose sonne *James* the 3. being but 7 yeeres old, was proclaimed king in the Campe, and the Queen *Mother made Regent, till a Parliament might be called to settle the government*; but when the Parliament assembled, upon the [h] Oration of *Kenneth* Archbishop of Saint *Andrewes* shewing the *Inconveniences and unfitnesse of a womans Government*, *they Elected 6. Regents to governe the King and Realme during his minority*. After which *Bodius* was made Vice-roy: This king being seduced by ill Courtiers and Councellors which corrupted him, thereupon divers of the Nobles assembling together, resolved to goe to the Court, to demand these ill Councellors and seducers of the King and then to execute them; which they did accordingly, and that with such fury, that when they wanted cords to hang some of them, they made use of their horses bridles, and every one strave who should be forwardest to doe this execution. The king promising reformation, was dismissed; but in steed of reforming he meditated nothing but revenge, blood and slaughter in his minde; and plotting secretly to murther the Nobles in *Edenburg*, by the helpe of Earle *Duglasse*; he detesting the fact and revealing the Treachery, thereupon the Nobles who formerly desired onely his reformation, tooke up Armes to destroy him, as one incorrigible and implacable; whereupon they made the Kings sonne Vice-roy, and knowing the kings perfidiousnesse, would yeeld to no termes of peace, unlesse he would resigne up his Crown to his son: which he refusing, thereupon they gave him battle and slew him, as a common enemie. After which calling a Parliament, they created his son *Iames* the fourth king; who comming under the power of the *Duglasses*, rescued himselfe at last from them: and invading *England*, *Anno.* 1542 when he proclaimed *Oliver Sincleer* his favorite, Generall, the Scottish Nobility tooke it in such indignation, that they threw downe their weapons and suffered themselves to be taken prisoners; whereupon the king growing sicke with griefe and anger, soone after dyed. [i] *Anno.* 1555. *Mary* the Daughter of king *Iames* the sixth of *Scotland*, and heire to the Crowne, being within age, her mother *Queene Mary*, by common consent was made Regent, and shee by common consent and councell of the Nobles, married to *Francis* Dolphine of *France*. In the meane time there hapning some troubles and warres about the reformed Religion, which many of the Nobles and people there contended for; the Queene *Mother*, granting those of the Religion, a confirmation of their liberties and Religion by way of Truce for 6 moneths, she in the meane time sends for Souldiers out of *France*, where with she endeavoured to suppresse Religion, with the remaining liberty of the Scots, and to subject them to the *French*. Whereupon the Nobles of *Scotland* who stood for the defence of their Religion and Liberties, by a common decree in Parliament, deprived the *Queene Mother* of her Regencie, make a league with our *Queene Elizabeth*, being of the reformed Religion, and receiving ayde both of men and money from her, besieged the *Queene Mother* in *Edenburgh* Castle, where she dyed of griefe and sicknesse. After which they expelled the *French*, and procured free exercise of the Reformed Religion. In the meane time *Francis* dying, the Queene sends for *Henry Steward* out of *England*, where he and his Father had beene Exiles; marries and proclaimes him king, *Iuly* 29. 1564. which done, she excluded the Nobility from her Councells, and was wholly advised by *David Rizzius*,

[h] *Buchanan l.* 12. p. 417. *to* 430. 441. *to* 456. *Heylin p.* 510.

[i] *Buch. l.* 16. *to the end of* 20. *Holin. Chytr. Chron. Saxon. l.* 21. *p.* 640. 641. 642. 836. *Speed*, in the life of Queen *Mary*, and Queene *Elizabeth Cambdens Elizabeth*, and others. See *Knocks* his History of *Scotland*.

zius, a *Sulavdian*, whom she brought with her out of *France*, and did all things by his Councell; wherewith the Nobles being much discontented, finding him supping with the Queene in a little Chamber, commanded him to rise out of the place, which did little become him, and drawing him out of the Chamber, stabbed him to death, *Anno.* 1565. The Queene soone after was delivered of a sonne and heire, *Iames* the 6. and then admits *Iames Hepburne* Earle of *Bothwell* into most intimate familiarity with her, setting him over all affaires of the Realm, granting nothing to any petitioner almost but by him; and her husband *Steward* being dead (whether of a naturall death or poyson is yet in controversie) she married *Bothwell* openly, without the Lords and Parliaments consents. Hereupon the Nobles tooke up armes against *Bothwel* and the Queen, besieged the Queen till she rendred her selfe prisoner, upon this condition; that she should abjure and resigne her interest in the Crowne and Kingdome to her infant sonne; which they compelled her to performe, and appointed *Iames* Earle of *Morton* Vice-roy, and Protector during the Kings Minority. In the meane time the Queene was committed prisoner to the Castle of the Isle of the *Lake Leuine*; where corrupting *Douglasse* her keeper, the Earle of *Mortons* Nephew, and a shipmaster, she escaped to the *Hamiltons* in safety, who having raised Forces to free her, waited her comming on the shoare: But the Vice-roy scattering these forces soone after, the Queene thereupon fled into *England*. *Anno.* 1568. Where Queene *Elizabeth* taking her expulsion ill, laboured that she might be restored to the Crowne, which could not be effected, but by Armes, or mediation; and neither of them without knowledge of the cause. Whereupon the Queene sent for the *Vice-roy* and Councell of *Scotland* into *England*, to answere the complaints of their Queene against them; which they did in a writing, (composed by *Buchanan*, and afterwards Printed both in Latine and *English*,) wherein they shewed the grounds and order of their proceedings against their Queene; wherewith the Queene and Councell were satisfied, that they had proceeded rightly and orderly: yet to keepe both sides in suspence, she pronounced no definitive sentence: The Vice-roy departing into *Scotland*, was afterwards murthered by the *Hamiltons*, and *Matthew Steward* Earle of *Lenux* made Vice-roy in his steed. The Queene in the interim treated with *Thomas Howard* Duke of *Northfolke*, about a match with him, and to seise upon the Realm of *Scotland*, whereupon he was committed to the Tower, and she restrained; after which she was solemnely arraigned and condemned to death by the Parliament of *England* for conspiring Queene *Elizabeths* death, &c. and for it beheaded at *Fotheringham* Castle, *Feb.* 8. 1587. The History of which *Queenes* life is more at large related by § *Buchanan* and others; and her imprisonment and Deposition professedly justified as lawfull by his Treatise, *De Iure Regni apud Scotos* (compiled for that purpose) to which I shall referre the Reader.

§ *Rerum. Scot. Hist.* l. 15. 16. 17. 18. 19. 20.

What the Lords and Realm of *Scotland* have done within these 5. yeers last past in defence of their Religion Lawes, Liberties, by holding generall Assemblies, Parliaments, taking up armes, seising the Forts and Ammunition of the Realm, and marching into *England*, against the Kings consent and Proclamations, is so fresh in memory, so fully related in the *Acts of Oblivion and Pacification*, made in both Parliaments of *England* and *Scotland*, ratified by the King himselfe; and in particular Histories of this Subject, that I shall not spend time to recite particulars; but

but will rather conclude from all the premiſes with the words of [r] *Buchanan*; 'The Ancient cuſtome of our Anceſtors in puniſhing their Kings, ſuffers not our 'forcing of the Queene to renounce her right unto the Crowne to her ſonne, to 'ſeeme a Novelty; and the moderation of the puniſhment, ſhewes it proceeded 'not from envie: for ſo many Kings puniſhed with death, bonds, baniſhment 'by our Anceſtors, voluntarily offer themſelves in the ancient Monuments of 'Hiſtories, that we neede no forraigne examples to confirme our owne act: 'For the *Scottiſh* Nation, ſeeing it was free from the beginning, created it ſelfe 'Kings upon this very Law, that the Empire being conferred on them by the ſuf-'frages of the people, if the matter required it, they might take it away againe 'by the ſame ſuffrages; of which law many footſteps have remained even to 'our age: for in the Iſlands which lye round about us, and in many places of 'the Continent, wherein the Ancient language and conſtitutions have conti-'nued, this very cuſtome is yet obſerved in creating Governours: likewiſe the 'Ceremonies which are uſed in the Kings inauguration have alſo an expreſſe 'image of this Law; out of which it eaſily appeares, that a Kingdome is no-'thing elſe, but the mutuall ſtipulation betweene the people and their Kings: the 'ſame likewiſe may be moſt apparently underſtood out of the inoffenſive te-'nor of the ancient Law, preſerved from the very beginning of raigning among 'the *Scots* even unto our age; when as no man in the meane time hath at-'tempted, not onely not to abrogate this Law, but not ſo much as to ſhake it, 'or in any part to diminiſh it: Yea, whereas our Anceſtors have deprived ſo 'many Kings as would bee tedious to name, of their Realme; condemned 'them to baniſhment, reſtrained them in priſons, and finally puniſhed them 'with death, yet there was never any mention made of abating the rigor of 'the Law; neither perchance undeſervedly, ſince it is not of that kinde of 'Lawes which are obnoxious to the changes of times, but of thoſe 'ingraven in the mindes of men in the firſt originall of mankinde, and ap-'proved by the mutuall conſent well-nigh of all Nations, which continue un-'broken and ſempiternall together with the Nature of things, and being ſub-'ject to the commands of no man; domineere and rule over all men. This 'law (which in every action offers it ſelfe to our eyes and mindes, and dwels 'in our breſts will we, nill we) our Anceſtors following, were alwayes ar-'med againſt violence, and ſuppreſſed the unrulineſſe of Tyrants. Neither is this 'Law proper onely to the *Scots*, but common to all well-ordered Nations and 'People: as the *Athenians*, *Lacædemonians*, *Romanes*, *Venetians*, *Germanes*, '*Danes*: which he there manifeſts by examples. So that I may hence infallibly determine, the Realme, Parliament, and Nobles of *Scotland*, collectively conſidered, to be the Soveraigne power in that Realme, ſuperiour to the Kings themſelves: from whom I ſhall proceede to Scripture Preſidents, in the Kings and Kingdomes of the *Gentiles*, *Iſrael*, and *Iudah*, recorded in Scripture.

[r] *Rerum Scot. l. 20. p. 746, 747.*

The Kings of the *Gentiles*, *Iſrael*, and *Iudah*.

Now

Now least any should object, that all the forecited Examples and Authorities are but humane, and no convincing evidences to satisfie the Conscience, That whole Kingdoms, States, and Parliaments are above their kings, and of greater power then they, I shall therefore (to close up this Posterne Gate of Evasion) conclude with Scripture Presidents, ratifying this truth beyond all contradiction. To begin with Heathen kings and States therein recorded. I read in the 1 *Sam.* 29. and 1 *Chro.* 12. 19: *That when* David *with his men offered to go with* Achish *and the Philistines against King* Saul (*his Soveraign*) *and the Israelites to Battell, and passed on in the rereward with* Achish; *the Princes of the Philistines seeing it, said, What do these Hebrews here? To whom* Achish *answered, Is not this* David *the servant of* Saul *King of Israel, which hath been with me these years, and I have found no fault in him since he fell unto me unto this day? Hereupon the Princes of the Philistines were wroth with him, and taking advice together, said to their King* Achish, *Make this fellow returne that he may goe again to his place which thou hast appointed him, and let him not go down with us to Battell, lest in the Battell he be an adversary to us; for wherewith should he reconcile himself to his Master? should it not be with the Heads of these men? Is not this* David, *of whom they sang one to another in dances, saying,* Saul *slew his thousands, and* David *his ten thousands? Then* Achish *called* David, *and said unto him, Surely as the Lord liveth, thou hast been upright, and thy going out and coming in with me in the Host is right in my sight, for I have not found evill in thee since the day of thy coming; nevertheless the Lords favour thee not; wherefore now return and go in peace, that thou displease not the Lords of the Philistines. And when* David *replied, What have I done, &c. that I may not fight against the Enemies of my Lord the King?* Achish *answered him, I know thou art good in my sight as an Angell of God, notwithstanding the Princes of the Philistines have said,* HE SHALL NOT GOE VP WITH VS TO BATTELL; *wherefore rise up early in the morning with thy Masters servants that are come with thee, and assoon as ye have light, depart; whereupon they returned.* Here we see the Lords of the Philistines did peremptorily overrule their king against his will, who durst not contradict them; therefore they had a Power superiour to his: as will further appear by 1 *Sam.* 5. 7, 8, 9, 10, 11. and *ch.* 6. 1, to 13. where when *the Ark of God was taken by the Philistines, the Lords and People of the Philistines (not the King) met, consulted, and ordered, how it should be removed from place to place, and at last sent it back again.* So *Ahasuerus* the great *Persian Monarch*, was *advised, overruled by his Councell of State*, as appeareth by the case of Queen *Vashti*, *Ester* 1. and *what his Princes thought meet to be done, that he decreed and proclaimed, verse* 19, 20, 21, 22. So *Artaxerxes* king of *Persia* did all things of moment, *by the advise of his Counsellors and Princes, Ezra* 7. 28. and *Chap.* 8. 25. *Great Nabuchadnezzar King of Babylon*, (Dan 3. 2, 3. 24. *chap.* 4. 32, to 36.) *was for his pride driven from men, put to eat grasse with Oxen for a space, till he knew that the most High ruleth in the Kingdoms of men: After which his understanding and reason returned to him, and the glory of his Kingdom, and his Councellors and Lords sought unto him, and established him in his Kingdom, he being over-ruled and counselled afterwards by them.* So *Daniel* 6. *Darius King of the Medes and Persians, was over-ruled by his Lords and Princes, even against his will, to Signe a Decree, and to cast Daniel into the Lyons Den for breach of it; and though the King were sore displeased with himself for Signing this Decree, and set his heart on* Daniel, *and laboured till the going down of the Sun*

(a) Dan.6.14.30 to deliver him; yet the Princes assembling and telling the King, (a) Know O King, 29 that the Law of the Medes and Persians is, that no Decree nor Statute which the King establisheth, (by the advice of his Nobles) may be changed, (to wit, by the king alone, without their advise: a clear evidence, that the greatest Persian Monarchs were subject to the Laws of their Kingdoms, as well as other Princes;) Whereupon the King commanded, and they brought Daniel and cast him into the Den of Lyons, and a stone was brought and laid upon the mouth of the Den, and the King Sealed it with his own Signet, and with the Signet of the Lords, THAT THE PVRPOSE MIGHT NOT BE CHANGED concerning Daniel. Here this great king was even against his will constrained to be subject both to his Laws and Lords. The like we read of Pharaoh king of Egypt, Exod. 1. 8,9,10,11. who consulted with his people how to oppresse the Israelites, as being unable to do it without their consents. And Exod. 10. Pharaohs Councellors and Lords, (after sundry Plagues on the Land) said unto him, How long shall this man (Moses) be a snare unto us? Let the men go that they may serve the Lord their God; Knowest thou not that Egypt is destroyed? Whereupon Moses and Aaron were brought before Pharaoh, who said unto them, Go serve the Lord your God. And Esay 19. 11. to 16. Surely the Princes of Zoan are fools, the counsell of the wise Counsellors of Pharaoh is become bruitish: They have also seduced Egypt, even they that are the stay of the Tribes thereof. They then had an overruling power above their kings. So the great King of Nineveh, Ionah 3.7,8,9. proclaimed and published a generall fast thorowout the City, by the Decree of the King, and of his great men, making no publike Laws, but by their advice and assents. In like manner we read in the 2 Sam. 5.3,4,5. That the Princes of Hanun King of the Ammonites counselled and overruled him (out of overmuch suspition) to abuse Davids messengers sent to him in love. And in the 1 Kings 22. 47. There was then no King in Edom, a Deputy was King; the kingdom appointing a Deputy then to rule them in stead of a king, and giving him royall authority: And in the 2 Kings 8.22. 2 Chron. 21.8. In the dayes of Ioram, Edom revolted from under the hand of Iudah (which had conquered it) and MADE A KING OVER THEMSELVES: and though Ioram smote the Edomites, who encompassed him, yet they revolted from under the hand of Iudah till this day: The electing and constituting of a king being in their own power. See Gen. 23.3. to 20. and c. 34. 20. to 25. to like purpose.

These being all Pagan Kings and States, I come to the Israelites themselves; wherein for my more orderly proceeding, and refutation of the many grosse erronious Assertions of * Court Doctors and Royallists touching the estate and Soveraignty of their Kings, whom they would make the world beleeve to be absolute Monarchs, subject to no Laws, to derive all their royall authority from God alone, and no wayes from the people; to be meerly hereditary and elective, to be above all their people, irresistible in their Tyrannicall wicked proceedings, and no wayes subject to their Realms and Congregations overruling controll, much lesse to their defensive oppositition or deprivation; I shall digest the whole History of their Kings and Kingdoms Iurisdictions and power into these ensuing propositions, which I shall clearly make good out of Scripture, as I propound them in their order.

First, That the originall Creation and Institution of the Israelites Kings and Kingdoms proceeded onely from the power and authority of the people, and that solely by Divine permission, rather then institution: This is most apparent by Deuter. 11.14,15.

When

When thou art come unto the land which the Lord thy God giveth thee, and shalt possesse it and dwell therein, and shalt say, I WILL SET A KING OVER ME, like as ALL THE NATIONS THAT ARE ABOVT ME; THOV SHALT in any wise SET HIM KING OVER THEE, whom the Lord thy God shall chuse; one from among thy brethren SHALT THOV SET OVER THEE, THOV MAIST NOT SET A STRANGER OVER THEE, *which is not thy Brother.* Where God himself by way of * propheſie of what afterwards ſhould come to paſſe, expreſly declares, firſt, that the primary motion of changing the government of the *Iews* from Iudges and an Ariſtocracy into a *Kingdom*, ſhould proceed from the peoples inclination, as the words, *and ſhalt ſay, I will ſet a King over me, &c.* import. Secondly, that the authority to change the *Government* into a Regality, to creat and make a *King*, reſided in, and the authority of the *King* proceeded meerly from the people, as the words, *I will ſet a King over me, Thou ſhalt ſet him over thee*; (four times recited in two Verſes;) manifeſt beyond diſpute. Thirdly, that all Nations about them who had *Kings*, had the like power to create and make their kings, as the words, *Like as all the Nations that are about me*, witneſſe. All which is evicently confirmed by *Ioſephus, Antiqu. Iudæorum, l. 4. c. 8.* by *Carolus Sigonius de Repub. Hebræorum, l. 7. c. 3. Bertram, Cunæus,* * *Sehikardus*, and * divers *Commentators* on this Text: The Hiſtory of the change of their State into a *Kingdom*, and of their Iudges into kings, added to this *Propheſie* and precept, will leave no place for any ſcruple. We read in the 1 *Sam.* 8. that the people growing weary of *Samuels* government who judged them, by reaſon of the ill government of his ſonnes, *who tooke Bribes, and perverted judgement*; thereupon ALL THE ELDERS OF ISRAEL GATHERED THEMSELVES TOGETHER, *and came to* Samuel *unto* Ramah, *and ſaid unto him, Behold, thou art old, and thy ſons walk not in thy wayes, now* MAKE VS A KING TO IVDGE VS LIKE ALL THE NATIONS: *But the thing diſpleaſed* Samuel, *when they ſaid, Give us a King to judge us; and* Samuel *prayed unto the Lord; And the Lord ſaid unto* Samuel, HEARKEN VNTO THE VOYCE OF THE PEOPLE IN ALL THAT THEY SAY VNTO THEE; *for they have not rejected thee, but they have rejected me that I ſhould not reign over them; According to all the works that they have done ſince the day that I brought them out of Egypt, even unto this day; wherewith they have forſaken me, and ſerved other gods, ſo do they alſo unto thee: Now therefore hearken to their voyce; howbeit, yet proteſt ſolemnly unto them, and ſhew them the manner of the King that ſhall reign over them. And* Samuel *told all the words of the Lord unto the people that asked of him a King; and he ſaid,* This *will be* (not ought to be) *the manner of the King that ſhall reign over you, he will take your ſons, and appoint them for himſelf, &c. and ye ſhall be his ſervants; and ye ſhall crie out in that day becauſe of YOVR KING WHICH YE SHALL HAVE CHOSEN YOV, and the Lord will not hear you in that day. Never-the-leſſe, the people refuſed to obey the voyce of* Samuel, *and they ſaid, Nay,* BVT WE WILL HAVE A KING OVER VS, *that we alſo may be like all the Nations, and that our King may judge us, and go out before us, and fight our battels. And* Samuel *heard all the words of the people, and rehearſed them in the ears of the Lord: And the Lord ſaid unto* Samuel, *Hearken unto their voyce, and make them a King. After which, when God had appointed* Saul *to be their King,* (*b*) Samuel *called the people together unto the Lord in* Mizpeh, *and recapitulating the great deliverances*

* See Cunæus de Repub. Heb. l. 1. c. 14.

* Iun. Regium Heb.

* See Steph. Iunius Brutus, Vindic. Contra Tyrannos, q. 3. p. 83. 90. 92. De Iure Magiſtr. in Subditos, p. 271, 273.

(*b*) 1 Sam. 12. 12, 13, 14 &c.

deliverances God had done for them, added, And *ye have this day rejected your God, who himself saved you out of all your adversities and tribulations, and ye have said unto him, Nay,* BVT SET A *KING OVER VS, &c.* And Samuel *said unto all the people, See ye him whom the* Lord *hath chosen, that there is none like him among all the people? And all the people shouted and said, God save the King.* After which he (*c*) expostulated again with them thus, *And when ye saw that* Nahash *King of the Children of* Ammon *came against you, ye said unto me, Nay,* BVT A KING SHALL REIGN OVER VS, *when the* Lord *was your King; Now therefore behold the* KING WHOM YE HAVE CHOSEN, AND WHOM YE HAVE DESIRED, *&c. that ye may perceive and see that your* WICKEDNESSE *is great which ye have done in the sight of the* Lord, IN ASKING YOV A KING. *And all the people said unto* Samuel, *Pray for thy servants unto the* Lord *thy God that we die not, for we have added unto all our sins this evill,* TO ASK A KING. *Which compared, with Hos.* 13.10,11. *I will be thy* King, *where is any other that may save thee in all thy Cities? and thy Judges of whom thou saidst,* GIVE ME A KING AND PRINCES? *I gave thee a King in mine anger, and tooke him away in my wrath:* with *Acts* 13. 21. *And afterward* THEY DESIRED A KING, *and God gave them* Saul *the son of* Cis, *by the space of forty years.* All these concurring sacred Texts will infallibly demonstrate, that this change of the Iudges into Kings, and the originall creation of their Kings and kingdoms proceeded only from the importunity and authority of the people, who would not be gainsaid herein, not from Gods institution, or *Samuels* approbation, who censured and disavowed this their motion, though they at last condescended to it; all which is elegantly related, confirmed by *Iosephus, Antiqu. Iudæorum, l.6. c.* 4, 5, 6, 7. By all this it is apparent, that the congregation and people of the Iews had the Soveraign power in themselves, as well as other Nations, because the authoritie to alter the whole frame of their former *Aristocraticall Government* into a Monarchy, resided in them, though they were taxed for changing it in *Samuels* dayes, who had so justly, so uprightly judged them.

(*c*) 1 *Sam.* 12. 12,13. to 20.

2. Secondly, it is apparent, *that the Iudges and kings of the Israelites were not properly hereditary, but oft elective by the people: and though God did sometimes immediately nominate the persons of those that should reign over them, as is apparent by* Saul, David, Ieroboam, Iehu, *others; yet the people did constantly confirm, make them kings, and gave them their royall authority, none being made kings by Divine appointment, but such as they willingly accepted, approved, confirmed for their kings; Gods previous designation being but a preparative to their voluntary free* (not restrained or limited) *election.* The first king among the *Israelites* (though but over part of them) was *Abimelech* the son of *Ierubbaal*, who was made king *by the peoples election, Iudges*, 9.1, 19 7. who having perswaded those of *Sechem* to elect him for their king, thereupon ALL THE MEN *of Sechem gathered together, and* ALL THE HOVSE *of Millo went and* MADE ABIMELECH KING: whence *Iotham* thus upbraided them and him, Verse 14. to 19: *Then said all the trees unto the Bramble, come thou and reign over us: And the Bramble said unto the trees, If in truth ye annoint me king over you, then come and put your trust in my shadow, &c. Now therefore if ye have done truly and sincerely in that* YE HAVE MADE *Abimelech* KING, *&c And that ye have risen up against my fathers house this day, and have* MADE *Abimelech king, &c.* We read *Iudg.* 8. 21, 23. that after *Gideon* had slain *Zebah* and *Zalmunna*, with the *Midianites*,

The

The men of Israel said unto Gideon, **Rule thou** *over us, both thou and thy sons, and thy sons son also, for thou hast delivered us from the hand of Midian. And* Gideon *said unto them, I will not rule over you, neither shall my son rule over you, the Lord shall rule over you.* Where we clearly see, the power and right to elect a Ruler, and to limit the government to him and his Issue, for three Generations only, to reside *in the peoples* free election. So *Judges* 10.17,18. and *Chap.* 11.1. to 12. *When the Children of* Ammon *were gathered together and encamped against* Gilead, *the people and Princes of* Gilead *said one to another, What man is he that will begin to fight against the children of* Ammon, *he shall be Head over all the Inhabitants of* Gilead. *And the Elders of* Gilead *went to fetch* Iephthah *out of the Land of* Tob, *and said unto him, Come and be our Captain that we may fight with the Children of* Ammon, *and be our Head over all the inhabitants of* Gilead: *Upon promise of which dignitie, he went with them to* Gilead; and THE PEOPLE MADE HIM HEAD AND CAPTAIN OVER THEM. That the election and making of their Kings belonged of right to all the people, is past dispute, being so resolved by God himself, *Deuter.* 17.14,15. *When thou art come into the land, &c. and shalt say, I WILL SET A KING OVER ME, like as all the Nations that are about me, THOV shalt in any wise SET HIM KING OVER THEE whom the Lord thy God shall choose; one from among thy Brethren shalt* THOV SET OVER THEE, THOV MAIST NOT SET A STRANGER OVER THEE: Where the power of creating and electing the King, is left wholly to the peoples free choice, with these generall restrictions, that he should be one of their brethren, not a stranger, and particularly qualified as is there expressed. And though God did sometime design and nominate their Kings, yet he left the power of approbation and ratification of them free to the people, as is apparent by 1 *Sa.* 8.18. *And ye shall crie in that day, because of the King* WHICH YE SHALL HAVE CHOSEN *you.* Hence *Saul* their first King, though nominated and designed by God and *Samuel*, was yet approved, confirmed and made King by the People. *Who shouted and said,* God *save the King,* when *Samuel* presented him to them; 1 *Sam.* 10.24. (d) *But the children of Belial despising and bringing him no presents,* Verse 27. *after* Saul *had conquered the* Ammonites, *who besieged* Iabesh Gilead; *The people said unto* Samuel, *who is he that said,* Shall Saul *Reign over us? bring the men that we may put them to death.* Then Saul *said, There shall not a man be put to death this day; for this day the Lord hath wrought salvation in Israel. Then said* Samuel *to the people, Come let us go to* Gilgal, *and renew the Kingdom there. And* ALL THE PEOPLE *went to* Gilgal, *and there* THEY MADE SAVL KING *before the Lord in* Gilgal: Where *Samuel* useth this speech to the people, concerning *Saul,* (e) *Now therefore behold* THE KING WHOM YE HAVE CHOSEN, *and whom* **Ye have desired**, *the Lord hath set a King over you:* (So that the choice and election of him, was as well theirs as Gods:) And Verse 25. he calls him **Your King**, because chosen and made by, as well as for the people.

(d) 1 Sam. 11, 12, 13, 14.

(e) 1 Sam. 12. 13

Saul being slain by his owne hands, the Crown descended not to his sonne by way of descent, but *David* succeeded him by Gods designation, and the Peoples election too; by whose authority he was made and crowned king, being formerly * annointed by *Samuel* to succeed *Saul.* This is irrefragable by the 2 *Sam.* 2. 4. Where *David* to *going up to Hebron by Gods direction, the men of Iudah came, and there* **They Annointed** *David* **King** *over the House of Iudah.* After which 2 *Samuel,* 5. 1.

* 1 Sam. 16. 1, 14.

to 5. *ALL THE TRIBES OF ISRAEL came to David to Hebron, and spake saying, Behold we are thy bone and thy flesh. Also in time past, when Saul was King over us, thou wast he that leddest out and broughtest in Israel; And the Lord said to thee: Thou shalt feed my people Israel, and thou shalt be a Captain over Israel. So AL THE ELDERS of Israel came to the King at Hebron, and King David made a League* (or Covenant) *with them before the Lord; and THEY ANNOINTED DAVID KING OVER ISRAEL.* And in the 1 *Chron.* 12. 23. *to* 40. Wee have a particular *recitall of the numbers of the bands that were ready armed to the Warre, and came to David to Hebron to TURN the Kingdome of Saul TO HIM; and came with a perfect heart to Hebron TO MAKE DAVID KING OVER ALL ISRAEL; and ALL THE REST also of Israel were OF ONE HEART TO MAKE DAVID KING:* Whose title to the Crown being afterwards shaken by his sonne *Absalom*, who cunningly usurped it, (and that by the election of the people too; as is evident by *Hushai* his speech unto him, 2 *Sam.* 16. 18. *Nay, but whom the Lord, and* THIS PEOPLE, AND ALL THE MEN OF ISRAEL CHOOSE, *his will I be, and with him I will abide,* compared with 2. *Sam.* 29. 9, 10. *And all THE PEOPLE were at strife thorow all the Tribes of Israel, saying; Absalom whom WE ANOINTED OVER US is dead, &c.* A cleare evidence the kingdome was then held elective, and that the people had the Soveraign power of electing and creating their kings;) (*f*) *all the people throughout all the Tribes of* Israel *and the men of* Iudah, *to re-establish David in his Throne, being fled out of the Land, sent this Message to him; Returne thou and all thy servants: Whereupon the King returned, and all the Tribes went as farre as* Iordan *to meet and bring him back again to Gilgal.*

(*f*) 2 Sam. 19. 9. to 43.

(*g*) 1 *King.* 1. 5. *to* 13. *David* growing old, his son (*g*) *Adonijah*, against his consent, accompanied with some great Officers and Courtiers of his party, *usurped the Crown, and was by them saluted King*; but *David* hearing of it, by Gods election and choise, *commanded Solomon (though not his eldest sonne) to be annointed and proclaimed King, and to sit upon his Throne in his life time: As soon as he was anointed and the Trumpet blew;* (*h*) 1 *Chron.* 23. 1. *c.* 28. & 6, 7, 8. *c.* 29. 1, 2. *ALL THE PEOPLE said, God save king Solomon. And ALL THE PEOPLE came up after him, and piped with flutes, and rejoyced with great joy, so that the earth rent with the sound of them; So that all* Adonijah *his company forthwith deserted him, and he and* Ioab *were glad to flee to the hornes of the Altar for shelter.* After which, *David assembled all the Princes of* Israel, *the Princes of the Tribes, the Captaines of Companies, thousands and hundreds, the Stewards, Officers, and mighty men, with all the valiant men of his kingdome, to* Ierusalem; *then he declared to all the Congregation, that God had chosen Solomon to sit upon the Throne of the kingdome of the Lord over* Israel, *and to build him an house, &c. exhorting them to contribute liberally towards this building, which they did; and when they had blessed the Lord, and offered Sacrifices to him* ALL THE CONGREGATION MADE *Solomon the sonne of* David KING THE SECOND TIME, AND ANOINTED HIM *unto the Lord*, TO BE THE CHIEFE GOVERNOVR (his first Coronation being but private without the presence and consent of the whole Realme, but of those only then present in Ierusalem:) *Then Solomon sate on the Throne of the Lord, as king, instead of David his Father, and* ALL ISRAEL OBEYED HIM; *and all the Princes, and mighty men, and likewise all the sonnes of David submitted themselves to him*

(*i*) 1 *Chron. c.* 28. & 29.

(*k*) 1 *Chron.* 29. 20. *to* 26.

him as their king: after he was thus generally elected and crowned king the 2. time by all the Congregation. And after *Davids* death, *he was (l) established and strengthened in his kingdome by the peoples voluntary admission and free submission to him.* From which History of *Solomon* it is cleare. 1. That though *David* caused *Solomon* to be first crowned King privately to prevent *Adonijah* his usurpation; yet hee thought that title not sufficient without a second Election, admission, and Coronation of him by *all the People and generall Congregation.* 2. That till this his second inauguration by all the people, he was not generally acknowledged, nor obeyed by all as their lawfull king. 3. That Gods and *Davids* designation of *Solomon to the Crown*, did not take away the peoples liberty, right and power, freely to nominate, make, and choose their kings; their preuious designation being thus accompanied with this tacit condition, that the people likewise should freely elect, constitute, and crown him for their king, else what need of this their subsequent concurrent acceptance and second coronation of him for their king, by all the congregation, if their consents and suffrages were not necessary? or how could he have raigned over them as their lawfull king, had not the people generally chosen, accepted, admitted him for their Soveraigne?

(l) 2 Chron. 1, 1. 1 King. 2. 46.

Solomon deceasing, *(m) Rehoboam* his eldest sonne *went up to Sechem*: (what to doe? not to claime the crown by discent from his Father, but by election from the people, as the following History manifests;) FOR ALL ISRAEL *were come to Sechem* TO MAKE HIM KING: if to make him king, then he was no king before they had made him, as many Divines most sottishly averre against the very letter of the Text *(n)* and *Iosephus*; (who writes, *That it pleased the Assembly of the Israelites there held*, that HEE SHOULD RECEIVE THE KINGDOM BY THE PEOPLES CONSENT.) *And Ieroboam and* ALL THE CONGREGATION *OF ISRAEL came and spake unto Rehoboam, saying, Thy Father made our yoake grievous: now therefore make thou the grievous service of thy Father, and his heavy yoake which he put upon us lighter,* AND WE WILL SERVE THEE: (*because naturally subjects delight in mild Kings, who will somwhat descend from their altitudes*, saith *(n) Iosephus.*) This was the condition they propounded to him before they would accept him for their king, and upon this condition only would they admit him to reigne over them; therefore doubtlesse the disposall of the Crown and limitation of the kings royall power resided in all the congregation, who had authority to prescribe their kings what equall and just conditions they pleased. *And he said unto them, depart yet for three dayes, then come again to me; and the people departed. Hereupon Rehoboam consulted with the old men that stood before* Solomon *his Father, while he lived, and said, how doe you advise that I may answer this people? And they spake unto him, saying; If thou wilt be A* SERVANT *unto this people this day, and wilt* SERVE THEM *and answer them, and speak good words to them* THEN THEY WILL BE THY SERVANTS FOR EVER; *But he forsooke the Counsell of the old men, which they had given him, and consulted with the young men that were grown up with him, and which stood before him, and following their ill advise: when* Ieroboam *and all the People came to* Rehoboam *the third day, as he had appointed; the King answered the people roughly; and forsaking the old mens Counsell, he spake unto them after the Counsell of the young men, saying; My Father made your yoake heavy, and I will adde to your yoake; my Father chastised you with whips, but I will chastise*

(m) 1 King. 12. 2 Chron. 6. 10. v. 11.

(n) Antiq. Iud. l. 8. c. 3.

you with scorpions. Wherefore the King HEARKNED NOT UNTO THE PEOPLE, for the cause was from the Lord, &c. SO WHEN ALL ISRAEL SAW THAT THE KING HEARKNED NOT VNTO THEME *the People answered the King (through indignation with one voyce,* writes *Iosephus*,; *saying; What portion have we in David;* NEITHER HAVE WEE INHERITANC) IN THE SONNE OF IESSE, (that is, we have not intailed our Subject ionnor the inheritance of this our Realme to *David* and his seed for ever, but are still free to elect what King we please;) *to thy Tents O Israel. Now see to thine House, David: so Israel departed to their Tents. But as for the children of* Israel *which dwelt in the Cities of* Iudah, Rehoboam *reigned over them: (the Tribes of* Iudah *and* Beniamin CHOOSING HIM THEIR KING BY THEIR COMMON SVFFRAGES, writes *Iosephus.) Then King Rehoboam sent Adoram who was over the Tribute* (to excuse saith *Iosephus*, the petulancy of his young tongue, and to appease the mindes of the enraged vulgar:) *And all Israel stoned him with stones that he dyed: therefore King* Rehoboam (imagining truly, that himselfe was stoned in his servant, and fearing lest the once conceived hatred should be poured out on his own head, tremblingly getting up into his chariot, as hastily as he could) *made speed to flee to Ierusalem. So Israel fell away from the house of* David *unto this day. And it came to passe when* ALL ISRAEL *heard that Ieroboam was come again, that they sent and called him unto the Congregation,* AND MADE HIM KING OVER ALL ISRAEL, &c. (it being so preordained by God, 1 *King.* 12. 26. to 41.) Loe here the whole Congregation, or Parliament of *Israel*, if *I* may so stile it, had full and free power to reiect *Rehoboam* from the Crown, for refusing to subscribe to their conditions; to elect *Ieroboam* for their lawfull King, and erect a new Kingdome of their owne, divided ever after from that of *Iudah:* which action *I* shall prove anon to be lawfull, warranted by Gods owne divine authority, and no sinne, nor rebellion at all in the People; who never admitted *Rehoboam* for, or submitted to him as their lawfull Soveraigne. So *Iehu* having slain King *Ioram, Ahabs* eldest sonne, *sent a Letter to* Samaria *where his other 70. sonnes were brought up, to the Rulers and Elders there, wishing them to look out THE BEST AND MEETEST of their Masters sonnes, and set him on his Fathers throne, and fight for their Masters house: But they being exceedingly afraid, said; two Kings could not stand before him, how then shall we stand? and sent word to* Iehu, *We are thy servants, and will doe all that thou shalt bid us;* WE WILL NOT MAKE ANY KING. A clear evidence that the kingdom was then elective, and that they had power to choose the meetest man (not eldest brother) for their king.

(p) 2 King. 20. 1. to 7.

(q) 1 King. 16. 15, 16, 17, to 24.

After this, (q) *Zimri* slaying *Baasha* king of *Israel*, and *usurping the Crown*, the people then *encamped about Gibbethon hearing of it, that Zimri had conspired and also slain the King;* Wherefore *ALL ISRAEL MADE OMRI Captain of the Host king over Israel that day in the Campe, who burnt Zimri in his Palace: then were the People divided into two parts: halfe of the People followed* Tibni *to make him king, and halfe followed Omri: But the people that followed Omri prevailed against the people that followed* Tibni; *so* Tibni *dyed, and* Omri *Reigned*, being made king onely by the peoples free election, without any divine designation. So (r) *Ioash* the sonne of *Ahaziah, when Athaliah had usurped the Crowne and kingdome of Iudah neer seven yeers space, was MADE KING, anointed and crowned by Ieboiadah the High Priest, the Captaines of hundreds, and ALL THE PEOPLE OF THE LAND,* (who

(r) 2 King. 11. 2 Chron. 22 10. & 23. Ioseph. Antiq Iud. l. 9. c. 7.

(*who rejoyced at it*) when he was but 7. yeeres old, and *Athaliah* was apprehended, deposed, and murthered by them as an Vsurpresse.

(*f*) So *Amaziah* King of *Iudah being slain by a Conspiracie at Lachish* ALL THE PEOPLE OF IVDAH *tooke Vzziah who was but* 16. *yeers old, and* MADE HIM KING *instead of his Father.* (*t*) *Vzziah king of* Iudah *being smitten with Leprosie unto the day of his death, dwelt in a severall house,* Iotham *his son (in the mean time by common consent) was over this house, judging the people of the Land:* (*v*) *Ammon king of* Iudah *being slain by his own servants, the people of the Land slew all them that had conspired against Ammon:* And THE PEOPLE OF THE LAND MADE Iosiah *his sonne* King *in his stead.* And after (*x*) *Iosiah his death, the* PEOPLE OF THE LAND *took Iehoahaz the sonne of Iosiah and* MADE HIM KING *in his Fathers stead in Ierusalem.* From all which sacred Texts and Presidents; as likewise from *Hosea* 8. 4. THEY HAVE SET VP KINGS, *But not by mee*; THEY HAVE MADE PRINCES, *and I knew it not*; it is most apparant, that the kings of *Israel* and *Iudah*, were usually elected by, and derived their Royall authority from the people, who made them kings, and received not their kingdomes and Crowns immediatly from God himself by a divine right: which may be further conmed by the 1. *Macab.* 9. 28. 29. 30. *After the death of Iudas Maccabeus; all Iudas his friends came unto Ionathan his brother, and said unto him, since thy brother Iudas dyed, we have none like to him to goe forth against our enemies: Now therefore* WEE HAVE CHOSEN THEE *this day* TO BE OUR PRINCE *and Captain in his stead, that thou maist fight our battells. Upon this Ionathan took the Government on him at that time. After Ionathans death, the People said unto Simon his brother with a lowd voyce,* 1 *Mac.* 13. 8. 9. *Thou shalt be our Leader instead of Iudas, and Ionathan thy brother; fight thou our battels, and whatsoever thou commandest us, wee will doe. And the Iewes and Priests were well pleased that Simon should be their Governour, Captain, and High Priest; and Simon accepted thereof,* 1 *Mac.* 14. 41. 1049. Hence *Carolus Sigonius de Repub. Hebraeorum, l.* 7. *c.* 3. writes, *That the kings of the Israelites were created by the Suffrages of the People; that the Kingdome of Israel was translated to divers Families for their idolatry; that although the kingdome of Iudah were in some sort hereditary, yet it was confirmed by the Suffrages of the People (which he proves by the example of Rehoboam and others) and that they obtained the Royall dignity not onely by inheritance, but likewise by the Suffrages of the People, as every one may clearly know, who shall but consider the Histories of their kings*; Which plainly refutes the wild, impudent, false assertion of the Author of *An Appeale to thy Conscience*, newly published, p. 13. where thus he writes: *Observable it is, that throughout the whole Scriptures we read not of* Any King (I doubt hee never read the Scriptures, else he could not be so grossely mistaken) *THAT WAS CHOSEN BY THE VOYCE OF THE PEOPLE: Nor of an Aristocracy, that is, where the Nobles govern, nor of a Democracy, that is where the people govern. And therefore let them consider how they can answer it at the last day, who shall endeavour to change an hereditary kingdome into an elective, or any other forme of Government whatsoever: that the people doe properly and absolutely make a king is false, &c.* But had this illiterate *ignoramus* seriously perused the precedent or subsequent Texts here cited, with the best Commentators on them, or read over advisedly, *Iosh.* 22. *Iudges* 17. 6. *c.* 18. 1. *c.* 19. 1. *c.* 21. throughout; with the

(*f*) 2 *Chron.* 25 27. 28. *c.* 26. 2 King 14. 19. 20, 21.
(*t*) 2 *King* 15. 2 *Chron.* 27. 2.
(*v*) 2 *king.* 21. 23. 2 *Chro.* 33. 25.
(*x*) 2 *Chron* 36. 1. 2 *king.* 23. 30.

Books of *Ezra, Nehemiah, Judges, Esther, Maccabees*, the four Euangelists touching Christs arraignment and death, *Acts* 4. 5. 22. 23. 24. and 25 chapters or consulted with *Iosephus, Philo, Paul Eber, Godwin, Cunæus, Sigonius, Bertrã*, or any others who have written of the Jewish Antiquities or Republike, he could not have had the impudency to have published such grosse untruths, and should have found not onely divers kings in Scripture created by the voyce of the people, but an hereditary kingdom oft changed into an elective, yea into an Aristocraticall and no Royall government; and an Aristocracie and Democracy to, even among the Jews themselves, whose government before their kings: was meerly Aristocraticall, as *Iosephus Antiqu. Iud. l.* 4. *c.* 8. *Carolus Sigonius de Repub. Hebr. l.* 1. *c.* 5. *Cunæus, Schickardus, Bertram, Paul Eber*, and all * others that I have seen, except this *Animal irrationale risibile*, punctually determine, they having no kings of their own before *Saul*, nor any after *Zedekiah*. Therefore I shall spend no more waste paper to refute this palpable errour, so confidently asserted by parisiticall Court Doctors, who make no conscience of writing any, though the grossest untruths, which may advance the absolute Soveraign Arbitrary tyrannicall government of kings, to oppresse and inslave the people.

* *De Iure Magistratus in subditos: & Iunius Brutus Vindiciæ contr. tyrannos qu.* 1. 2. 3. *passim.*

3.

Thirdly, that the Kings of Iudah and Israel were * *no absolute Soveraign Princes, but took their Crown with and upon such Divine conditions, for breach whereof they and their posterities were oft times by Gods command, just judgement, and speciall approbation deposed, disinherited, destroyed, and the Crown translated to other families.*

* *See Iunius Brutus Vindic. Contr. Tyran. qu.* 3. 4. *p.* 46. *to* 66, 194, 165, 166. *where this is largely manifested; & de Iure Magistratus in Subditos qu.* 6. *p.* 272, 273, 274.

This is evident by direct Scriptures, *Deuter.* 17. 14. *to the end. Thou shalt in any wise set him King over thee whom the Lord thy God shall chuse; one from among thy Brethren shalt thou set King over thee; thou maist not set a stranger over thee, which is not thy Brother.* Here is an expresse limitation and condition in respect of the person of the King; the conditions in regard of his royall administration follow, which are partly Negative, partly positive, *But he shall not multiplie Horses to himself, nor cause the the people to return to Egypt, &c. Neither shall he multiply wives to himself, that his heart turn not away; neither shall he greatly multiply to himself silver and gold. And it shall be when he sitteth on the throne of his Kingdome, that he shall write him a Copie of this Law in a Book, out of that which is before the Priests the Levites; and it shall be with him, and he shall read therein all the dayes of his life, that he may learn to fear the Lord his God, to keep all the words of this Law, and these Statutes to do them; That his heart be not lifted up above his brethren, and that he turn not aside from the Commandment to the right hand or to the left, to the end that he may prolong his dayes in his Kingdom, he and his children in the midst of Israel.* Here all the kings of the Israelites when their kingdoms should be erected, are strictly bound by God himself to negative and positive conditions, upon performance whereof, they and their children should prolong their dayes in the kingdom, and perpetuate their thrones in the midst of Israel; and upon breach whereof they and their posterity should lose both their lives and kingdom to; as the last clause insinuates, and the subsequent Texts in direct terms averre. But what if the king should violate these conditions, might the people lawfully resist him? (a) *Iosephus* in his paraphrase on this very text, which I shall cite at large, resolves they might; *Truely the government of the best men* (or Aristocraticall government) *is best; and to live in a Republike thus administred, nor is there cause why you should desire any other kinde of goverment, but it is best, that contenting your selves with this, you continue within the power of your Laws and of your selves:*

(a) *Antiqu. Iud. l.* 4. *c.* 8.

But

But if the desire of a king shall possesse you, let there be none unlesse he be of your stock, and blood, and one to whom justice, with other vertues, are cordiall: He whosoever he shall be, let him attribute more to the lawes and unto God, than to his own wisedome, AND LET HIM DO NOTHING WITHOVT THE HIGH PRIESTS AND SENATES ADVICE; *neither may he nourish many wives, nor possesse very much money, and many Horses, with the plenty of which things he may easily become a contemner of the laws; and if he shall addict himself to these things more then is meet,* OBSTANDVM EST, *ne potentior fiat quam rebus vestris expedit,* HE *IS TO BE RESISTED, lest he become more potent then is expedient for your affairs: So he.* Yea (*b*) *Zuinglius* with (*c*) B. *Bilson* expresly resolve, that *the people were bound to resist, question and depose their kings for their idolatry, and breach of these conditions; and that God himself justly punished them for* Manasses *sins and wickednesse, because they resisted and punished him not for them, as they were obliged to do;* as I have (*d*) *elswhere* manifested, to which I shall refer you.

(*b*) *Explanat. Artic.* 42. *Tom.* 1. *f.* 84.
(*c*) *True Difference between Christian Subiection, &c. part.* 3. *p.* 513, 514.
(*d*) *Part* 3 *p.* 93 100.

This condition most clearly appears in other Texts; as in the 1 *Sam.* 12, 13, 14, 15, 25. Where when *Saul* the first king of the Israelites was crowned at their earnest importunity, against Gods and *Samuels* approbation, *Samuel* used these speeches to them, *Now therefore behold the King whom ye have chosen, and whom ye have desired, &c. If ye will fear the Lord and serve him, and obey his voyce, and not rebell against the commandment of the Lord, then shall both ye and also the King that reigneth over you continue following the Lord your God. But if ye will not obey the voice of the Lord, but will rebell against the voyce of the* Lord, *then shall the hand of the* Lord *be against you, as it was against your fathers, &c. But* IF *ye shall do wickedly, ye shall be consumed both ye and your King.* After this *Saul* being distressed by the Philistines, weary of staying for *Samuel*, and presuming to offer sacrifice without him, hereupon (*e*) *Samuel* said to *Saul*, *Thou hast done foolishly, for thou hast not kept the Commandment of the* Lord *thy God, which he commanded thee, for now would the* Lord *have established thy kingdom upon Israel for ever; but* NOW THY KINGDOM SHALL NOT CONTINVE, *for the* Lord *hath chosen him a man after his own heart, and the* Lord *hath commanded him to be captain over his people,* BECAVSE THOV HAST NOT KEPT THAT WHICH THE LORD COMMANDED THEE. Lo here the breach of Gods conditions by king *Saul*, forfeited his Kingdom, and disinherited his posterity of it. So when he performed not Gods command, *in utterly destroying* Amalek, *sparing* Agag *and the best of the things; Samuel* sharply reprehending him for this offence, said unto him, (*f*) *Behold, to obey is better then sacrifice, and to hearken than the fat of Rams; for Rebellion* (namely, king *Sauls* rebellion against Gods command, not subjects rebellion against their Prince, not so much as once dreamed off in this Text as Court Doctors grosly mistake, and so miserably pervert this Scripture contrary to the sence and meaning, translating it from kings to subjects, from king rebellion against God, to subjects rebellion against men) *is as the sin of Witchcraft, and stubbornnesse is as iniquity and Idolatry.* BECAVSE *thou hast rejected the Word of the* Lord, *he hath also* REIECTED THEE FROM BEING KING: *I will not return with thee, for thou hast rejected the word of the* Lord, *and the* Lord HATH REIECTED THEE FROM BEING KING *over Israel; the* Lord HATH RENT THE KINGDOM *of Israel* FROM THEE *this day, and hath given it to a neighbour of thine, that is better then thou. Also the strength of Israel*

(*e*) 1 Sam. 13. 13, 14.
(*f*) 1 Sam. 15. 22, 23, 26, 28, 29, 30.

will not lie nor repent, for he is not as men, that he should repent; (to wit, of renting the kingdom from him) *though he repented that he had made* Saul *king over Israel, because he turned back from following him, and performed not his Commandments,*

(g) 1 Sam. 16. to 14. 1 *Sam.* 15. 11. 35. After which (g) *God said to* Samuel, *How long wilt thou mourn for* Saul, *seeing* **I have reiected him from Reigning** *over Israel? Fill thine horn with Oyl, and I will send thee to Iesse the Bethlemite, for I have provided me a king among his sons*; whereupon he went and annoynted *David*, who succeeded him in the kingdom, *Sauls* posterity being utterly disinherited for his recited sins.

After this when God setled the kingdom upon *David* and his seed after him, it was upon condition of obedience, and threatning of corrections even by men, if they transgressed: (h) *The* Lord *telleth thee, that he will make thee an house*; *and when thy dayes be fulfilled, and thou shalt sleep with thy fathers, then I will set up thy seed after thee, which shall proceed out of thy bowels, and I will establish the Throne of his kingdom for ever; I will be his father, and he shall be my son*; **If he commit iniquity, I will chastise him with the Rod of men,** *and with* **the Stripes of the Children of Men**: (that is, *I* will not chasten him immediately by my self, but by men my instruments, even by *Ieroboam*, and his own subjects the ten Tribes, or other enemies whom *I* will raise up against him and his posteritie, 1 *Kings* 11. 9, to 41.) *But my mercy shall not depart away from him, as* I *took it from* Saul, *whom* I *put away before thee*: *And thine house and thy kingdom shall be established for ever before thee*: yet still upon condition of obedience, as is most apparent by *Davids* speech to king *Solomon*, 1 *Chron.* 28. 5, 6, 7, 8, 9. *And the* Lord *hath chosen* Solomon *my son, to set him upon the throne of the kingdom of the* Lord, *over all* Israel; *And he said to me, &c. Moreover,* I *will establish his kingdom for ever,* **If he continue constant to do my Commandments,** *and my judgements, as at this day. Now therefore in the sight of all* Israel, *the Congregation of the* Lord, *and in the audience of our God, keep, and seek for all the* Commandments *of the* Lord *your God, that ye may possesse the good land, and leave it for an inheritance for your Children after you for ever. And thou* Solomon *my son, know thou the* Lord *God of thy father, and serve him with a perfect heart, and with a willing minde; for the* Lord *searcheth all hearts, and understandeth all the imaginations of the thoughts*, **If thou seek him,** *he will be found of thee,* **but if thou forsake him, he will cast thee off for ever**; notwithstanding the former Covenant and establishment, which was but conditionall, not absolute, as the renting of the ten Tribes from his son, and the *determining of the very* (i) *kingdom of* Iudah *it self in* Zedekiah, (*after which it never returned any more to* Davids *Line*) infallibly evidence. Hence we read in the 1 *Kings* 11. that Solomons *idolatrous wives, turning away his heart from following the* Lord, *and drawing him to commit idolatry in his old age*; *hereupon the Lord grew angry with* Solomon; **Wherefore** *the* Lord *said unto him*; *for as much as this is done of thee, and* **thou hast not kept my Covenant** *and my Statutes which* I *have commanded thee,* **I will surely rend the Kingdom from thee,** *and will give it to thy servant*; *Notwithstanding in thy dayes* I *will not do it, for* David *thy fathers sake*; *but* I *will rend it out of the hand of thy son*: *Howbeit* I *will not rend away all the kingdom, but will give one Tribe to thy Sonne, for my servant* Davids *sake, and for* Jerusalems *sake which* I *have chosen.* In pursuance whereof the Prophet *Ahijah rending Ieroboams garment into* 12 *peeces, said to* Ieroboam, *Take thee ten peeces, for thus saith the Lord the God of* Israel, *Behold, I will rend the kingdom out of the hand of* Solomon, *and will give*

(i) 2 *Chron.* 10 & 11. & 36. *Cuneus de Repub. Hebr. l.* 2. *c.* 9. 15 *Ioseph. Antiq. Iud l.* 10 & 11. *Paul Eber. Estate de la Religion & Repub du peopl. Indeique.*

ten

ten Tribes to thee; BECAVSE THAT THEY HAVE FORSAKEN ME, and have worshipped the Goddesse of the Zidonians, &c. AND HAVE NOT WALKED IN MY WAYES, to doe that which is right in mine eyes, to keep my Statuts *and my judgements, as did* David *his Father; howbeit I will not take the whole Kingdome out of his hands; but I will make him Prince all the dayes of his life, for* David *my servants sake whom I chose, because he kept my Commaundements and my Statutes: But I will take the Kingdome out of his sonnes hand, and give it unto thee, even ten tribes. And unto his sonne will I give one tribe, that* David *my servant may have a light alway before me in* Ierusalem, *the City which I have chosen to put my name there. And I will take thee, and thou shalt reigne according to all that thy soule desireth, and shalt be King over* Israel. (But what, without any limitation or condition at all think you? No such matter:) *And it shall be IF THOV WILT HEARKEN VNTO ALL THAT I COMMAND THEE, and wilt walk in my wayes and doe that is right in my sight, to keep my Statutes and my Commandements, as* David *my servant did, that I will be with thee, and build thee a sure house, as I built for* David, *and will give* Israel *to thee: And I will for this afflict the seed of* David, *but not for ever.* Loe here both Kingdomes of Iudah and Israel, are given and entailed on *David, Solomon,* and *Ieroboam* onely upon condition of good behaviour; which not performed, they shall be rent from either: And was this only a vain idle condition, as some deem the Covenants and Coronation oathes of Kings to God and their Kingdoms? Surely no, for we read experimentall verifications of them in King *Rehoboam*; (*k*) Who *answering all the people and Ieroboam when they came to Sechem to make him King, roughly, according to the Counsell of the young men, and threatning to adde to their yoake, instead of making it lighter; and hearkning not unto the people,* (FOR THE CAVSE WAS FROM THE LORD, *that he might perform his saying, which he spake by Abijah the Shilomite unto Ieroboam the sonne of Nebat;*) *whereupon, when all Israel saw, that the King hearkned not unto them,* the people answered the king, saying; *What portion have we in* David; *neither have we inheritance in the son of* Ieſſe; *to your tents O* Israel; *now see to thine own house* David; *so* Israel *departed to their tents, stoned* Adoram *who was over the tribute, whom Rehoboam sent to appease them; Whereupon Rehoboam made speed to get him into his Chariot to flee to Ierusalem: So all* Israel *fell away from the house of* David *to this day; and calling Ieroboam unto the congregation, made him King over all Israel: there was none that followed the house of* David, *but the tribe of Iudah onely. Vpon this revolt, when Rehoboam was come to Ierusalem, he assembled all the House of Iudah, with the tribe of* Benjamin, *an hundred and foure score thousand chosen men which were Warriers to fight against the house of Israel, to bring the Kingdome again to Rehoboam the sonne of Solomon: But the Word of God came unto Shemaiah the man of God, saying, speake unto Rehoboam the sonne of Solomon King of Iudah, and unto all the house of Iudah and Benjamin, and to the remnant of the people, saying: Thus saith the Lord; Yee shall not goe up, nor fight against your brethren the children of Israel: return every man to his house,* For this thing is done by mee. *They hearkned therefore unto the Word of the Lord, and returned to depart, according to the Word of the Lord.* Behold here an experimentall forfeiture of a kingdome, and translation of the major part of it to another family, for *Solomons* idolatry, executed by the peple through Gods appointment; which being fore-threatned in the generall by God himselfe to *David,*

(*k*) 1 Kin. 12. 2. Chron. 10 & 11.

and by *David* to *Solomon* in case he transgressed, predicted by way of menace to *Solomon* and *Ieroboam*, by *God* himselfe and his Prophets after *Solomons* transgression, executed by the people by Gods speciall direction and approbation; and thus owned and justified by *God* in the peoples behalfe after the execution, when *Rehoboam* would have made war against them for this revolt, must certainly be acknowledged, not only a iust and warrantable action in respect of *God* himselfe, but likewise of the people, unlesse we will make *God* himselfe the Author and approver of rebellion. By all which it is apparant, that *Solomon* and *Rehoboam* held their Crownes onely upon condition from *God*, the breach whereof might and did forfeit them to the people in some measure: And so did *Ieroboam* too, hold the kingdome of Israel newly erected by the people after this revolt, upon the conditions of obedience, already mentioned, which being violated by *his* (*l*) *setting up 2 calves in Dan and Bethel, out of an unwarrantable policy to keep the people from returning to Rehoboam if they went up to Ierusalem to worship; this thing became sin to the house of Ieroboam, even to cut it off and destroy it from off the face of the earth*, 1 *King.* 13. 34. For *Ieroboam* committing idolatry with the Calves, *Ahijah* the Prophet sent him this sharp message by his wife, 1 *K.* 14. 7, 8, 9, 10, 11. *Go tell* Jeroboam, *Thus saith the Lord God of Israel, for as much as I exalted thee from among the people, and made thee prince over my people Israel, and rent the Kingdom away from the house of* David, *and gave it thee, yet thou hast not been as my servant* David, *who kept my Commandements, and who followed me with all his heart, to do that onely which was right in mine eyes, but hast done evill above all that were before thee; for thou hast gone and made thee other gods, and molten images, to provoke me to anger, and hast cast me behinde thy backe*; Therefore *behold I will bring evill upon the house of* Ieroboam, *and will cut off from* Ieroboam *him that pisseth against the wall, and him that is shut up and left in Israel, and will take away the remnant of the house of* Ieroboam, *as a man taketh away dung till it be gone: Him that dieth of* Ieroboam *in the the Citie shall the dogs eat, and him that dieth in the field shall the fowls of the ayre eat, for the Lord hath spoken it. Moreover, the Lord shall raise him up a King over Israel, who shall cut off the house of* Ieroboam *in that day*. Neither was this an unexcuted commination, for *Ieroboam* dying, and (*m*) *Nadab his sonne succeeding him both in his kingdom and idolatries, wherewith he made Israel to sinne*, *Baasha* (by Gods just judgement) *conspired against him, slew him, reigned in his stead; and when he reigned he smote all the house of* Ieroboam, *so that he left not to him any that breathed; according to the saying of the Lord which he spake by his servant* Abijah; *because of the sins of* Ieroboam *which he sinned, and which he made Israel sin, by his provocation wherewith he provoked the Lord God of Israel to anger*. After which (*n*) *Baasha walking in the wayes and sins of* Ieroboam *notwithstanding this exemplary judgement of God on him and his posteritie, the word of the Lord came to* Iehu *sonne of* Hannani, *against* Baasha, *saying, For asmuch as I exalted thee out of the dust, and made thee Prince over my people Israel, and thou hast walked in the way of* Ieroboam, *and hast made my people of Israel to sinne, to provoke me to anger with their sins; behold, I will take away the posterity of Baasha, and the posteritie of his house, and will make his house like the house of* Ieroboam *the son of* Nebat; *him that dieth of* Baasha *in the City shall the dogs eate, and him that dieth in the field shall the fowls of the Ayre eate*: which judgement was actually executed upon his evill sonne king *Elah*, *whom* Zimri *the Captain of his Chariots slew, as he was drinking himself drunk in the house of* Arza

(*l*) 1 *King.* 12. & 13.

(*m*) 1 *King.* 15. 25. to 31.

(*n*) 1 *King.* 15. 34. & 16. 1, 10 14.

Steward

Steward of his Houſe, and reigned in his ſtead; and aſſoon as he ſat in his Throne, he ſlew all the houſe of Baaſha, *he left him none that piſſed againſt the wall, neither of his kinſfolks, nor of his friends. Thus did* Zimri *deſtroy all the houſe of* Baaſha, *according to the word of the Lord, which he ſpake againſt* Baaſha, *by* Iehu *the Prophet, for all the ſinnes of* Baaſha, *and the ſins of* Elah *his ſon, by which they ſinned, and by which they made Iſrael to ſinne, in provoking the Lord God of Iſrael to anger with their vanities.* (n) *King* Omri *and* Ahab *his ſonne going on in the ſinnes of Ieroboam, ſerving* Baal *to boot, perſecuting Gods prophets, putting* Naboth *moſt injuriouſly to death for his Vineyard, by* Iezabels *inſtigation, and ſetting himſelf to work evill in the ſight of the Lord, above all that were before him: Hereupon the Prophet* Elijah *tells him, (o) Thus ſaith the Lord, Behold, I will bring evill upon thee, and will take away thy poſterity, and will cut off from Ahab him that piſſeth againſt the wall, and him that is ſhut up and left in Iſrael, and will make thine houſe like the houſe of* Ieroboam *the ſon of* Nebat, *and like the houſe of* Baaſha *the ſonne of Ahijah, for the provocation wherewith thou haſt provoked me to anger, and made Iſrael to ſinne: And of Iezabel alſo ſpake the Lord, ſaying, The Dogs ſhall eat* Iezabel *by the wall of* Iezreel; *him that dieth of Ahab in the City the Dogs ſhall eat, and him that dieth in the field ſhall the Fowls of the Ayre eate.* Neither was this a vain threatning, for *Ahab* being ſlain at *Ramoth Gilead,* (p) *the dogges licked up his blood in the place where they licked the blood of* Naboth; and *Iehoram* his ſon ſucceeding him, both in his Throne and ſins, (q) *God himſelf annoynted Iehu King over Iſrael, of purpoſe to execute this his vengeance againſt the houſe of* Ahab *and Iezabel; who in execution thereof ſlew both King* Iehoram, Ahaziah *King of Iudah,* Iezabel, *and all Ahabs ſons and poſteritie, his great men, Nobles, with all the Prieſts and worſhippers of* Baal,, *till he left none of them remaining: For which ſevere execution of Gods Iuſtice, the Lord ſaid unto* Iehu, (r) **Becauſe thou haſt done well** *in executing that* **which is right in mine eyes,** *and haſt done unto the houſe of Ahab* **according to all that was in mine heart,** *thy children of the fourth generation, ſhall ſit on the Throne of Iſrael.* Which action of *Iehu* being thus ſpecially commanded, commended, and remunerated with ſuch a temporall reward by God himſelf, muſt queſtionleſſe be lawfull, and no Treaſon nor Rebellion in *Iehu*, unleſſe we will charge God to be both the *Author, Approver* and Rewarder of thoſe ſinnes. *After* this (ſ) *Iehu* walking in the ſins of *Ieroboam*, though God deprived him not for it, yet he *ſtirred up* Hazael *to ſpoil and waſte his Countrey, during all his reigne, and the reigns of King* Iehoahaz *his ſon and* Ioaſh *his Granchilde, who ſucceeded him in his idolatries*; and *Zechariah* the laſt king of *Iehu's* Race, going in his *Anceſtors ſinnes*, was ſlain by *Shallum*, who *reigned in his ſtead.* (t) *Shallum, Pekahiah*, and *Pekah* three wicked idolatrous kings of *Iſrael*, were by Gods juſt judgement, ſucceſſively *ſlain one of another*, and by *Hoſhea.* So that all the Kings of *Iſrael*, who violated Gods Covenants and conditions annexed to their Crowns, did for the moſt part loſe their lives, Crownes, and underwent the utter extirpation of their poſterities, being totally cut off by the ſword, neither ſucceeding their Parents in their Crowns nor inheritances. *And* though the royall Crown of *Iudah* continued in *Davids* Line till the Captivity of *Zedekiah*, the laſt king of his Race; yet when ever they infringed the conditions which God annexed to their Crownes, and turned *Idolaters* or *flagitious perſons*, God preſently (by way of revenge) either brought *in forraigne enemies upon them*, which maſtered, conquered them, and ſometimes depoſed and carried them away

(n) 1 *King.* c. 22.

(o) 1 *King.* 21. 19. to 25.

(p) 1 *King.* 22.

(q) 2 *King* c. 9. & 10.

(r) 2 *King.* 10. 30.

(ſ) 2 *Kings* c. 12. to 16.

(t) 2 *Kin.* 16.

away Captives, or made them Tributaries, as the examples of King (*v*) *Rehoboam*, afflicted by *Shishak* King of *Ægypt*, for his sinnes and idolatry, and by *Ieroboam* all his dayes, (*x*) of *Abijam*, (*y*) *Iehoram*, (*z*) *Ahaziah*, (*a*) *Ioash*, (*b*) *Amaziah*, (*c*) *Ahaz*, (*d*) *Manasseh*, (*e*) *Iehoahaz*, *Iehoiakim*, *Iehoiachin*, *and Zedechiah*, (whose Histories, troubles, captivities and punishments you may reade at large) with others witnesse: or else caused their own servants, subjects, enemies to rise up against them, to slay them, as is evident by (*e*) King *Ahaziah*, *Ioash*; *Amaziah*, *Ammon*, and others. All which are unanswerable evidences and experimentall demonstrations, that the Kingdoms of Iudah and Israel were both held of God upon conditions, and that for the breach of these conditions they might be, and oft times were (by Gods Iustice on them) both lawfully deprived of their Crownes, and their posterities, disinherited, yea, totally cut off for ever; and in conclusion, both these most eminent Kingdoms, for the sins of kings and people, were invaded, destroyed, and both Kings with people carried away captives by their enemies, into forraigne Countries, from whence the whole Nation never afterwards returned, nor ever after attained to a king and kingdom of their own: So fatall is it for Kings, or Kingdoms to break those Covenants, Laws, Conditions which God himself hath prescribed them; and so far are any Kings from being exempted from all Laws, and left at libertie to do what they please, that the breach of them proves destructive to them and theirs.

(*u*) 1 *King* 13. 21. *to* 31.
(*x*) 1 *King*. 15. 3. 7.
(*y*) 2 *Chron*. 21
(*z*) 2 *Chron*. 22.
(*a*) 2 *Chro*. 24. 17. *to* 27.
(*b*) 2 *Chro*. 25.
(*c*) 2 *Chron*. 28.
(*d*) 2 *Chron*. 33. 2 *King*. 23. & 24. & 25.
(*e*) 2 *Kin*. 9. 27. 28. 2 *Chron*. 22. *c*. 24. 24. 26. *c*. 25 27. 28. 2 *Chron*. 33. 22, *to* 28.

I shall onely adde to this by way of Corollary, that all the *Israelites Rulers*, *Kings*, *People did joyntly and severally for* (*f*) *themselves for the whole Nation in generall*, *and every of them in particular*, *frequently enter into solemn Vowes and Covenants with God*, *to serve the Lord*, *to be and continue his people*; *to seek the Lord God of their fathers with all their heart*, *and with all their soul*; *that* whosoever *would not seek the Lord God of Israel*, *should be put to death*, *whether small* or great, *whether* Man *or* Woman, (not the King or Queen excepted;) *and they sware unto the* Lord *with a loud voice*, *and with shouting*, *and with trumpets*, *and with Cornets*, *and all rejoyced at the Oath*, *for they had sworn with all their hearts*. Witnesse the (*g*) Covenant made by *Ioshua and all the people*, To serve the Lord; *by* Samuel, Saul, *and all the people at* Sauls *Coronation*, *and by king* Asa *and all his people*, To seek the Lord, &c. (*who in pursuance thereof removed his mother* Maacha *from being Queen*, *because she had made an idol in a Grove*, *and cut down her idol*, *and stampt it*, *and burnt it at the brook* Kidron, 2 *Chron*. 15. 16. *of King* David, (*h*) Solomon, *and all the people at* Solomons *Coronation*; between (*i*) *King* Iehoash, Iehoiada *and all the Congregation at his inauguration*, *that they should be the* Lords *people*: *in pursuance whereof all the people went to the house of* Baal, *and brake it down*, *and brake his altars and images in pieces*, *and slew* Mattan *the Priest of* Baal *before the altars*; between (*k*) Hezekiah *and all his subjects and God*; *between* (*l*) Iosiah *and all that were present in Ierusalem and Benjamin and Gad*, *who made a covenant before the* Lord, *to walk after the* Lord, *and to keep his Commandments*, *and his Testimonies*, *and his Statutes*, *with all their heart*, *and with all their soul*, *to perform the words of the Covenant formerly written in the Book of the Covenant that was found in the house of the* Lord; *in execution whereof* Iosiah *tooke away all the abominations out of all the Countrey that pertained to the children of Israel*, *and made all that were present in* Israel *to serve the* Lord *their God*, *and not to depart from following the* Lord *God of their Fathers all his dayes*: Together with the like solemne publike Covenants made by (*m*) *Ezra*, (*n*) *Nehemiah and all the People*

(*f*) *Deut*. 29. 1. *to* 26. *Iosh* 24. 14, *to* 29. 2 *Chr*. 15. 9 *to* 17. 1 *Sam*. 12. 13. *to* 25. 1 *Chr*. *c*. 28, & 29. 2 *Chr*. 23. 3. 16. 17.
(*g*) 2 *Chr*. 15. 9. *to* 15.
(*h*) 1 *Chr*. 6. 28. & 29.
(*i*) 2 *Chr*. 23. 16 17. 2 *King*. 11. 4 17. 18.
(*k*) 2 *Chr*. 29. 10 *c*. 30. 19. *to* 27. *c*. 31. 1.
(*l*) 2 *Chr*. 34. 30. 31. 32. 33.
(*m*) *Ezra* 10. 3. 4
(*n*) *Nehem*. 9. 38. *c*. 10. 1, *to* 39.

unto

unto God; which Covenant the Princes, Levites, Priests and all the people sealed, and entred into a Curse and into an Oath to walk in Gods Law, and to observe and doe all the Commandments, Judgements and Statutes of the Lord, &c. And that God himself expressly commanded them *That if any Prophet or Dreamer of dreams, or thy Brother or son of thy Mother, or thy daughter, or the wife of thy bosom, or thy friend which is as thine own soul, should secretly intice them to commit idolatry, or serve other gods, they should neither consent nor hearken to, nor pitty, nor spare, nor conceal him, but shalt surely kill him; thy hand shall be first upon him to put him to death, and after the hand of all the people, and thou shalt stone him with stones, that he die, onely for this secret intitement to idolatry: And all Israel shall hear, and fear, and do no more such wickednesse as this is. And if they should hear, that the inhabitants of any City were seduced to serve other gods, then they must diligently search and inquire after it; and if it be truth and the thing certain, that such abomination was wrought among them, then they shall surely smite the inhabitants of that City with the edge of the sword, destroying it utterly, and all that is therein, and the cattell thereof with the edge of the sword; and gather all the spoil of it into the midst of the street thereof, and burn the City with all the spoile thereof every whit for the Lord their God, and it shall be an heap for ever, and shall not be built again:* In pursuance whereof the (p) *ten tribes and a half, assembled to warre against the Reubenites, Gadites, and half Tribe of* Manasseh, *for their supposed idolatrous Altar; and* (q) *all the children of Israel assembled together as one man, and made warre against the men of Gibeah and the Benjamites, for not punishing the grosse Rape of the Levites Concubine, destroying the City utterly, and the Tribe of Benjamin too welnigh. And upon this ground, the City of* (r) *Libnah revolted from under the hand of* Iehoram *the idolatrous King of* Iudah, **Because he had forsaken the Lord God of his Fathers.** And as some learned men conceive (s) *the people made a Conspiracie against King* Amaziah *in* Ierusalem, *and he fled to* Lachish, *but they sent after him to* Lachish *and slew him there*; „ (t) not privately but openly, as acted by publike au- „ thoritie, consent, and meditated deliberation, not out of any private hatred, but „ for his impietie, whereby he violated the chiefest part of his Oath and Cove- „ nant; whereupon we read not of any complaint, or inquisition, or proceedings, or „ punishment inflicted on those that slew him after his death, either by the people, „ or his children, as there was upon those who slew King *Ammon*; but being slain, „ they brought him back on horses, and he was buried at *Ierusalem* with his Fathers „ in the Citie of *David*, out of reverence to his royall dignity and family; *And* **All „ the People** *of* Iudah *took* Azariah, *and made him King in stead of his father* Ama- „ ziah; which plainly shewes, that what was formerly done by the greater part of „ the States at *Ierusalem*, was afterwards confirmed by common consent, as done up- „ on a just cause, and executed by command of those who might lawfully doe it. Whence they conclude, *That the Orders or States of the People of* Israel *had right to chuse what King they would themselves, out of the family of* David; *and being elected afterward to correct and punish him as there was cause: that they were obliged by this Covenant made to God, both to reprehend, resist, oppose, yea, depose, if not put to death their King for his open incorrigible idolatries and sins, by common consent, as their king was obliged to punish and put them to death for their idolatries and crimes, their kings being included within their Covenants; and Gods inhibition of idolatry under pain of capitall punishments, extending to Kings, as well as others, if not more then to any, because*

(o) Deut 13. & 17.

(p) Iosh. 22. 9. to 34.

(q) Iudg. 20, & 21.

(r) 2 Chr. 21. 10 11.

(s) 2 King. 14. 20. 2 Chro. 17, 18, 19, 20, 21.

(t) *De Iure in Magistratus in subditos, p. 272. to 275.*

their examples were most pernicious; and they were as far forth bound by their joynt Covenants made to God with their Kings to hinder their Kings from, and to proceed against them for their idolatries, as their kings were to impedite and punish them for their breach of Covenant, and because God himself did punish them for their Kings idolatries, as is evedent by Ier. 15. 1, *to* 6. *and the History of the Kings, and Chronicles every where, which God would not in justice have done, had not the people both just right and power to resist, hinder, censure, punish, depose their Kings by publike consent of the State and people for their idolatries and breach of Covenant*, as (v) *Zuinglius*, (x) *Stephanus Junius Brutus*, the author of the Treatise (y) *De Iure Magistratus in Subditos*, with others, prove at large, and (z) Master *Calvin*, yea (a) *Bishop Bilson* himself, assents to. Such a Soveraign power had the whole State and Congregation of *Israel* and *Judah* over their kings themselves, *whose estates in their Crownes and Kingdoms by Gods own institution, was not absolute, but onely conditionall, and subject unto forfeiture, upon breach of these Covenants and Conditions by which they did injoy them.*

(v) Explanatio Artic. 42. & 44. Epist. Zuing. & Oecol. f. 186.
(x) Vindiciæ contra Tyrannos, quæst. 2. p. 43 to 70.
(y) Page 271. to 275.
(z) Instit. l. 4. c. 20. sect. 31.
(a) The True Difference, &c. part. 3. p. 513, 514.

Fourthly, *The Kings of Iudah and Israel were no absolute Soveraign Princes paramount their whole Kingdoms, the generall Congregation of the people, Senate or* Sanhedrin, *but inferiour to them in power, and not onely counselled, but over-ruled usually by them in matters of publike concernment:* This is evident not onely by *Iosh.* 22. 1 1. *to* 34. and *Iudges* 20. and 21. where the *whole Congregation of Israel*, as the Soveraign power, in the dayes of *Ioshua* and the *Iudges assembled about the great causes of the Reubenites, Gadites, and halfe the Tribe of Manasseh, concerning their Altar, and of the Gibeonites and Benjamites, concluding both matters of publike war and peace*; But likewise by the peoples rescuing *Ionathan* out of the hands and power of King *Saul* his father, that he died not, though *Saul had twice vowed that he should be put to death*, 1 *Sam.* 14. 38. to 36. *And the people said unto* Saul, *Shall* Ionathan *die who hath wrought this great salvation in Israel? God forbid; as the Lord liveth there shall not one hair of his head fall to the ground, for he hath wrought with God this day: So the people rescued* Ionathan *that he died not.* By the 1 *Chron.* 13. 1. to 7. where thus we reade: *And* David *consulted with the Captains of thousands and hundreds, and with every Leader, and* David *said* **unto all the Congregation** *of Israel,* **If it seeme good unto you,** *and that it be of the Lord our God, let us send abroad unto our brethren every where that are left in all the land of Israel, and with them also to the Priests and Levites which are in their Cities and Suburbs, that they may gather themselves unto us; and let us bring again the Ark of our God to us, for we enquired not at it in the dayes of* Saul. *And* **all the Congregation said,** *that they would do so,* **For the thing was right in the eyes of all the people.** *And* David *went up and all Israel to* Baalah, *to bring up thence the Arke of God the Lord.* Compared with the 1 *Samuel* 18. 2, 3, 4. where *when* David *sent out the people to battell against* Absalon *under three Commaunders, the King said unto the people, I will surely goe forth with you my selfe also: But the people answered,* * **Thou shalt not go forth;** *for if we flee away, they will not care for us, neither if halfe of us die will they care for us; but now thou art worth ten thousand of us, therefore now is better that thou succour us out of the Citie: And the king said unto them,* **What soever seemeth you good that I will doe;** and thereupon stayed behinde in the City, as they advised him. So he likewise followed *Ioabs* advice, to *go forth and sit in the gate, and speak comfortably to the People after his mourning*

* So 2 *Sam.* 21. 17, 18. David *being like to be slain by* Ishbibenoh *the Giant whom* Abishai *slew.* The men of *David* sware to him, saying, **Thou shalt go no more out with us to battell, that thou quench not the light of Israel.**

ing for Absalons *death, else not one of the People would have tarried with him that night,* 2 *Samuel.* 19. 1. to 20. and by this means all the people came before him *though they had formerly fled every man to his tent;* and he so engaged them to him, That all the people *were at strife thorowout all the Tribes of Israel, to bring the King back again to Gilgal,* whence *Absalon* had chased him. Adde to this the 1 *Kings* 12. 1. to 25. and 2 *Chron. c.* 10. and 11. where we finde, that after *Solomons* death, All Israel *came to* Sechem *to make* Rehoboam *King; and* all the Congregation of Israel *spake unto* Rehoboam, *saying, Thy father made our yoak grievous, now therefore make thou the grievous service of thy Father, and his heavy yoak which he put upon us, lighter, and we will serve thee. And he said unto them, Depart ye for three dayes, and then come again; and the people departed. In the mean time he consulted first with the old men, after that with the young men about him, what answer he should return; who giving contrary advice,* Ieroboam *and* all the people *coming to him again the third day, the King answered the people roughly, after the counsell of the young men, saying, My Father made your yoke heavy, and I will adde to your yoke; My Father chastised you with whips, but I will chastise you with scorpions: So when* all the people saw that the King hearkned not to them, *the people answered the King, saying, What portion have we in* David? *neither have we inheritance in the son of* Iesse, *to your tents O Israel; now see to thine own house* David: *So Israel departed to their Tents, and fell away from the house of* David *unto this day: And* all Israel called Ieroboam unto the Congregation, *and* made him King over all Israel: And the Text expresly addes this memorable observation, Wherefore the King hearkned not unto the people, for the cause was from the Lord, *that he might perform his saying, which the Lord spake by* Abijah *the* Shilonite *to* Ieroboam *the son of* Nebat. Where we see the Kings not hearkning to the people and congregation of Israel in their just request, and giving them an harsh answer, was a sufficient ground and occasion for them, to cast off his government, and elect another King to reign over them, and that with Divine approbation from God himself: Such was the whole peoples and congregations Soveraigne power over their Kings. We reade in the 1 *Kings* 20. 1. to 10. that when *Benhadad king of Syria gathered a great Host, and sent to* Ahab *king Israel, to resign up all his silver, gold, Wives, Children, and pleasant things into the hand of his servants: Then the king of Israel called* all the Elders of the Land, *and said, Heark, I pray you, and see how this man seeketh mischief, for he sent unto me for my Wives and for my Children, for my silver, and for my gold, and I denyed him not: And* all the Elders, *and* all the people *said unto him,* Hearken not unto him, nor consent. *Wherefore he said unto the messengers of* Benhadad, *tell my Lord the King, all that thou didst send for to thy servant at first, I will do, but this thing I may not do.* Where the Elders and people both advise and over-rule the King in this matter of great importance both to the Kingdom and King, who returned no answer to this publike case without the congregations publike advise. So

* *Hezekiah king of Judah sent to all Israel and Judah, and wrote Letters also to Ephraim and Manasseh, that they should come to the house of the Lord at Ierusalem, to keep the Passeover unto the Lord God of Israel; For* Hezekiah *had taken counsell, and his Princes,* and all the Congregation *in Ierusalem, to keep the Passeover in the second moneth, for they could not keep it at that time, because the people had not sanctified themselves sufficiently; neither had the people gathered themselves together at Ierusalem; and the thing pleased the King* And all the Congregation. So they established a Decree, * 2 Chron. 30. 1, to 6.

to make Proclamation throughout all Israel, from Berſheba *even to* Dan, *that they ſhould come to keep the Paſſeover unto the Lord God of Israel at Ieruſalem, for they had not done it of a long time, in ſuch ſort as it was written. So the Poſts went with the Letters from the King and the* Princes, *throughout all Israel, and Iudah, &c. verſ.* 12. *Alſo in Iudah the hand of God was to give them one heart to doe the Commandement of the King and of the Princes, by the word of the Lord*; and verſ. 23. *And* the whole Aſſembly took Counſell *to keep other ſeven dayes; and they kept other* (k) 2 Chron. 31. 38. 1. *ſeven dayes with gladneſſe; and* All the Congregation *of Iudah and Israel rejoyced: verſ.* 25. *When all this was finiſhed* All Israel *that were preſent, went to the Cities of* Iudah *and brake the images in pieces, and cut down the Groves, and threw downe the high places and the Altars out of all Iudah and Benjamin, in Ephraim alſo and Manaſſeth, untill they had utterly deſtroyed them all. Then all the Children of Israel, returned every man to his poſſeſſion into their owne City:* In the 2 Chron. 32. 3. *When* Hezekiah *ſaw that Senacherib was come, and that he was purpoſed to fight againſt* Ieruſalem; He took Councell with his Princes and his mighty men, *to ſtop the waters of the Fountaine which were without the City, and they did help him, and there was gathered much people together, who ſtopped all the Fountaines, &c.* Adde hereunto that notable Text, *Jer.* 38. 4. *to* 28. Where when the Prophet *Ieremy* had prophecied, *that Ieruſalem ſhould be given into the hands of the King of* Babylons *Army which ſhould take it; Therefore the Princes hereupon ſaid unto the King; we beſeech thee, let this man be put to death; for thus he weakneth the hands of the men of Warre that remain in this City, and the hands of all the people, in ſpeaking ſuch words unto them; for this man ſeeketh not the welfare of this people, but the hurt: Then* Zedechiah *the King ſaid; Behold he is in your hand*; For the King is not he that can doe any thing againſt you. *And Jer.* 26. 8. *to* 29. *Now it came to paſſe when Ieremiah had made an end of ſpeaking all that the Lord had commanded him to ſpeake unto all the people, that the Prieſts, the Prophets, and all the people tooke him, ſaying; thou ſhalt ſurely dye, &c. So Ezra* 10. 1. *to* 20. *There aſſembled unto* Ezra *a very great Congregation of men, &c. And they ſaid unto* Ezra, *we have treſpaſſed againſt our God, and have taken ſtrange wives of the people of the land; yet now there is hope in Israel concerning this thing. Now therfore let us make a Covenant with our God to put away all the ſtrange wives, &c. and let it be don according to the Law: and* All Israel *ſaid that they would doe according to this word. And they made Proclamation throughout Iudah and Ieruſalem unto all the children of the Captivity, that they ſhould gather themſelves unto* Ieruſalem; *and that whoſoever would not come within 3. dayes* According to the Councell of the Princes and the Elders, *all his ſubſtance ſhould be forfeited, and himſelfe ſeperated from the Congregation of thoſe that had been carryed away: Then all the men of Iudah and Benjamin gathered themſelves together unto Ieruſalem, within three dayes, and all the people ſate in the ſtreet of the houſe of God trembling, becauſe of this matter and for the great raine. And* Ezra *the Prieſt ſtood up and ſaid unto them, Ye have tranſgreſſed and taken ſtrange wives to encreaſe the treſpaſſe of Israel; Now therefore make confeſſion unto the Lord God of your fathers, and doe his pleaſure, and ſeperate your ſelves from the people of the Land, and from the ſtrange wives. Then* All the Congregation *anſwered, and ſaid with a lowd voyce; As thou haſt ſaid, ſo muſt we doe; but the people are many, and it is a time of much raine, and we are not able to ſtand without, neither is this a worke of one day or two; for we are many that*

have

have transgressed in this thing: let now our rulers of all the Congregation stand, and let them which have taken strange wives in our Cities, come at appointed times, and with them the Elders of every City and the Iudges thereof, until the fierce wrath of our God for this matter, be turned from us: And the Children of the Captivity did so. Where we see the whole Congregation determine and direct all that was done in this grand common businesse: And *Esther* 9. 17. to 32. *the Iewes* (upon *Mordecaies* and *Esthers* Letters, after the slaughter of their Enemies) **Ordained and took upon them and upon their seed,** *and upon all such as joyned themselves unto them, so as it should not faile, that they would keep the* 13. *and* 14. *day of the moneth Adar, and make it a day of feasting and gladnesse, according to their writing, and according to their appointed time every yeare: And that these dayes should be kept and remembred throwout every generation, every Family, every Province, and every City, and that these dayes of Purim should not faile from among the* Iewes, *nor the memoriall of them perish from their seed: And the Decree of Esther confirmed those mater of Purim,* **as they had decreed for themselves and their seed.**

From all these Texts (compared with *Prov.* 11. 14. c. 15. 22. c. 25. 5.) it is most apparant; that the Kings of *Iudah* and *Israel* were no absolute Soveraigne Princes paramount their whole Kingdomes, or the generall Senate and Congregation of the people, or their *Sanhedrin*, but inferiour to them in power; and not onely counselled but over-ruled usually by them, in all matters of publike concernment. A truth so pregnant, that (*c*) Bp. *Bilson* himself from some of these Texts confesseth, That *it is a question among the learned; what Soveraignty the whole people of* Israel *had over their Kings; And that these Scriptures have perswaded some, and might lead* Zuinglius *to thinke, that the people of Israel, notwithstanding they called for a King,* **Yet reserved to themselves sufficient Authority to over-rule their King, in those things which seemed expedient and needfull for the publike welfare,** *else God would not punish the people for their Kings iniquity, which they must suffer and not redresse.* Hence that eminent Iew (*d*) *Iosephus* (a man best acquainted of any, with his owne Nations Antiquities, Lawes, and the Prerogatives of their kings) resolves in direct termes; *that their King, whosoever he were, ought to attribute more to the Lawes, and to God, then to his own wisdome,* **And to doe nothing without the advice of the High-Priest and Senate;** *and that if he multiplyed horses, and mony more then was fitting* **They might resist him,** *lest he became more potent then was expedient for their affaires.* Hence *Petrus Cunæus de Repub. Hebr. l.* 1. *c.* 12. *p.* 101. 102. writes thus of the *Sanhedrin* or Parliament among the Iewes. *Thus the Prophets, who grievously offended, were no where else punishable but in this Assembly; which* (**Quod summæ potestatis est**) *as it is an Argument of* **The Supremest power** *did both constitute the King: ac de* **Bello gerendo deque hostibus profligandis & de proferendo Imperio deliberabant.** *Sed quoniam hæc ejusmodi erant in quibus salus omnium, & summa Reipublicæ vertebatur,* **Consultatum de his plerumque cum populo est;** *indictæ enim Comitia sunt, in quibus solis populus partem aliquam caperet regendæ reipublicæ, &c.* **De Rege igitur deque Bello,** *ut dixi, decreta facta interdum* **Populi auctore sunt. Cætera omnia** *Senatores Sanhedrin* **Per se expedivere.** So that the *Sanhedrin* and Congregation of the people were the highest Soveraigne power, and principall determiners of publike matters concerning warre and peace, by *Cunæus* his resolution: Who debating this weighty controversie, (*d*) *What the*

(*c*) *The third part of the True difference between Christian Subiection, &c. p.* 513. 514.

(*d*) *Antiqu. Iud. l.* 4. *c.* 8.

(*d*) *Cunæus de Repub. Hebr.* 6. 1. *c.* 3. *p.* 75. 76. 77.

Scepter of Iudah *was (propheſied of Gen. 49. 10.) and what and whoſe the Majeſty of the Empire was?* determines thus. *I ſuppoſe the Scepter to be nothing elſe, but the Majeſty of the Empire or Government, to wit that,* **Quæ ipſi Reipublicæ aſſidet,** *which belongs to the* **Republike it ſelfe.** *Wherefore whoſe the Republike is, the Scepter ought to be ſaid theirs. Now the Hebrew Republike from Moſes his time till the Kingdome of Rehoboam, was not of the Iewes (or tribe of Iudah) but of the twelve Tribes, from whence it followes, that even the Scepter for all thoſe times was of all the Iſraelites. Now of this Scepter, which was long common to all the twelve Tribes, the divine Patriarke ſpake not in that moſt famous Oracle: for he looked at latter yeares, and future ages, when as the Tribe of Iudah, the people being divided into contrary parts, began to have its Republike apart from the Iſraelites, which God approved and loved; and would have to be called Iewiſh, from the Tribe of Iudah alone, untill hee (to wit Chriſt) ſhould be given to the aſſemblies of men, to whom not onely the Empire of the Iewes, but Gentiles alſo was deſtinated. And verily this Majeſty of the Scepter, from the time it once began to be of the Iewes, we ſay continued to be theirs, although the ſtate of the Commonweale was ſometimes changed, and the ſoveraignty of the Empire was ſometimes in the Elders and High Prieſts, ſometimes in the Kings and Princes. They doe too fooliſhly, who here dance in a narrow compaſſe, and ſuppoſe that the honour of this name appertaines not but to Kings? For what people ſoever, uſeth its owne Republike and its Lawes,* **Is recte Gloriari de Imperio deque ſcepiro poteſt,** *it may rightly boaſt of* **Its Empire and Scepter.** *It is recorded, that at Ieruſalem even at that time, when not the Princes but the Elders governed the people, in the midſt of the great Councell, which they called the* Sanhedrin, *there hung a Scepter, which thing verily was a certain Enſign of its Majeſty; which* Marcus Tullius *in a particular Oration, ſaith,* Eſſe magnitudinem quandam Populi, in ejus poteſtate ac jure retinendo, quæ vertitur in imperio, atque omnis populi dignitate. *Not Kings, not Princes, but Conſuls and the Senate managed the Roman Common-wealth; whence this Law of Truce was given to the Ætolians,* which *Livy* reports, That they ſhould conſerve **The Majeſty of the People of Rome** without mal-engin: *And the very ſame thing was commanded all free People, who by any league, but not equall, would come into the frindſhip of the Romanes, as* Proculus *the Lawyer witneſſeth,* in l. 7. F. de Captiu: & Poſt. reverſis. *Neither think we it materiall to our purpoſe, of what Nation or Tribe they were, who moderated and ruled the Iewiſh affaires; for although the Haſmonæan Lvites held their Kingdome for many yeeres, yet the Republike was of the Iewiſh people. That moſt wiſe Maſter* Seneca *ſaid to* Nero Cæſar, **That the Republike was not the Princes, (or of the Prince) But the Prince the Republikes.** *Neither verily was the opinion of* Vlpian *the Lawyer otherwiſe; for he at laſt ſaith, that* **That is Treaſon, which is committed againſt the Roman People, or againſt their ſafety,** l. 1. ſ. 1. F. ad Legem Iul. Majeſt. *Now* Vlpian *lived in thoſe times, when the people had neither command nor ſuffrages left them, but the Emperours held the Empire and Principality; and yet he who is wont moſt accurately to define all things, ſaith,* **That Majeſty is of the People;** *From all which it is apparant, that not onely in the Roman Empire and other Kingdomes, but even among the Iewes themſelves; the Majeſty, and Soveraign Power, and Scepter reſided not in the Kings, but in the whole State and People.* Hence *Will. Schickardus* in his *Ius Regium Hebræorum, Argent.* 1625. *p.* 7. determines thus. *The ſtate of the Iewiſh Kingdome was not Monarchicall*

(as

(as our Court Doctors falsely dream) *but mixt with an Aristocracie, for the King without the assent of the Sanhedrin* Could determine nothing in great causes. *They constituted not a King but in it, &c.* attributing the Soveraignest power to the Congregation and Sanhedrin, who had power to create, elect, and in some cases to resist, and depose their Kings. Hence (e) *Huldericus Zuinglius* writes expressly, *That the Kings of the Iewes and others, when they dealt perfidiously, contrary to the Law of God and the rule of Christ, might be lawfully deposed by the People. Thus the example of* Saul *manifestly teacheth, whom God rejected, notwithstanding he had first elected him King: Yea, whiles wicked Princes and Kings were not removed, all the people were punished of God; as is evident by* Ier. 15.1. *to* 6. *where they were punished with sour judgements and plagues for* Manasses *sinnes. In summe, if the Iewes had not permitted their King to be so wicked without punishment, they had not beene so grievously punished by God. By what means he is to be removed from his Office, is easily to conjecture; thou must not slay him, nor raise any war or tumult to do it, but the thing is to be attempted by other means, because God hath called us in peace,* 1 Cor. 7. *If the King be created by common suffrages, he may again be deprived by common Votes, unlesse they will be punished with him; but if he be chosen by the election and consent of a few Princes, the people may signifie to them the flagitious life of the King, and may tell them, that it is by no means to be endured, that so they may remove him, who have inaugurated him. Here now is the difficulty for those that do this, the Tyrant will proceed against them according to his lust, and slay whom he pleaseth; but it is a glorious thing to die for justice and the truth of God; and it is better to die for the defence of justice, then afterwards to be slain with the wicked by assenting to injustice, or by dissembling, Those who cannot endure this, let them indure a lustfull and insolent Tyrant, expecting extream punishment together with him; yet the hand of the Lord is stretched out still, and threatneth a stroke: But when with the consent and suffrage of the whole, or certainly of the better part of the multitude a Tyrant is removed,* Deo fit auspice, *it is done by God approbation. If the Children of Israel had thus deposed* Manasseh, *they had not been so grievously punished with him.* So *Zuinglius*. Hence (f) *Stephanus Iunius Brutus* in his *Vindiciæ contra Tyrannos*, in answer to *Machiavels Princeps* (a most accursed mischievous Treatise) *and justification of the Protestants defensive wars in* France *to preserve their Religion and Liberties, Anno* 1589. determines positively, *That* as all the people are Superiour to the King, *so are those Officers of State and Parliaments, who represent them,* Superiour to Kings *collectively considered, though every of them apart be inferiour to them. In the Kingdom of Israel, which by the judgement of all Politicians was best instituted, by God, there was this order, The King had not onely private Officers who looked to his family but the* Kingdom *likwise had* 71 *Elders and Captains elected out of all the Tribes, who had the care of the Commonweale both in time of peace and war, and likewise their Magistrates in every Town, who defended their severall Cities, as the others did the whole Kingdom. These when ever they were to deliberate of greatest affairs, assembled together,* neither could any thing be determined without their advice, which much concerned the commonwealth: *Therefore* (g) David *called these all together when he desired to invest* Solomon *in the Kingdom, when he desired the policy restored by him should be examined and approved,* (h) *when the Ark was to be reduced, &c. And because they represented all the people, all the people are then said to have assembled together. Finally, the same* (i) *rescued* Ionathan, *condemned to death by* Sauls *sentence; from whence it appears,*

(e) Explanio Art. 42. Tom 1 Oper. Tigur. 1581. f. 84, 85.

(f) Quæst. 3. f. 94. to 97.

(g) 1 Chro. 29. 1.

(h) 1 Chr. 13. 1.

(i) 1 Sam. 14. 45.

that

that an appeale lay from the King to the people: But from the time the Kingdome was divided, through the pride of Rehoboam, *the Synedrin of Ierusalem consisting of 71 men,* (k) 1 Chron. 10. 1. *seems to be of that authoritie,* **that they might judge the King** *in their assembly, as well as the King judge them when they were apart. The Captain of the House of Iudah* (l) Neh. 11. 9. *was (l) President over this assembly, that is, some chief man chosen out of the Tribe of Iudah, as even the chief man for the City Ierusalem, was chosen out of the Tribe of Benja-* (m) Ier. 26. 9, 17 *min: This will be made more evident by examples: (m)* Ieremie *being sent by God to denounce the overthrow of the City Ierusalem, is for this, first condemned by the Priests and Prophets, that is, by the Ecclesiastical judgement or Senate; after this, by all the People, that is, by the ordinary Iudges of the Citie, to wit, by the Captains of thousands and hundreds; at last by the Princes of Iudah, that is, by the 71 men sitting in the new Porch of the Temple, his cause being made known, he is acquitted. Now they in that very judgement expresly condemn King* Iehoiakim, *who a little before had most cruelly slain the Prophet* Uriah, *threatning like things. Also we reade (n) elsewhere, that King* (n) Ier. 37. & 38 Zedekiah, *did so much reverence the Authoritie of this Sanhedrin, that he durst not free the Prophet* Jeremie, *thrust by these 71 men into a filthy prison, but likewise scarce dared to translate him into the Court of the Prison from thence; yea, when they perswaded him to consent to* Jeremiah *his death, he answered, that he was in their hands, and that* **he could not contradict them in any thing**; *Yea, he fearing lest they should enquire into the conference which he privately had with* Ieremie, *as if he were about to render an account of the things which he had spoken, forgeth a lie.* **Therefore in this Kingdom the States or Officers of the Kingdom were above the King**; I *say, in this Kingdome which was instituted and ordaintd, not by* Plato *or* Aristotle, *but by God himself, the Author of all order, and the chiefe institutor of all Monarchy: Such were the seven* Magi *in the* Persian *Empire, the* Ephori *in the* Spartan *Kingdom, and the publike Ministers in the* Egyptian *Kingdome, assigned and associated to the King by the People to that onely end, that He should not commit any thing against the Lawes.* Thus, and much more this Author, together with *Con. Superantius Vasco,* who published this Treatise to all pious and faithfull Princes of the Republike, giving large Encomiums of its worth; as also the Author of the Treatise *De Iure Magistratus in Subditos. p.* 253, 254, 255, 256. 268, *to* 275. whose words for brevity I pretermit; Bp. *Bilson* in his forecited passages: and *Hugo Grotius De Iure Belli & pacis, l.* 1, *c.* 3 *sect.* 20. *p.* 63, 64. where he confesseth, *That if the King of the Israelites offended against the Lawes written concerning the Office of a King, he was to be scourged for it*; and that the Sanhedrin had a power above their king in some cases.

5. *Finally, the Kings of Israel and Iudah were not superior to, nor exempted from the Lawes, but inferiour to and obliged by them, as well as Subjects:* This is evident, not onely by the premises, but by sundry impregnable Texts, As *Deut.* 17. 18. 19. 20. where God himselfe in the very description of the office and duty of their King, prescribes this in direct termes, as a part of his duty. *And it shall be when He sitteth on the Throne of this Kingdome, that he shall write him a Copy of* **This Law** *in a Booke, out of that before the Priests and Levites: And it shall be with Him, and He shall read therein* **All the dayes of his life**, *that he may learn to feare the Lord his God,* **To keep all the words of the Law, and these Statutes to doe them**, *that his heart be not lifted up above his brethren; and that* **He turn not aside from the Commandement, to the right hand or to the left**: seconded by *Iosh.* 7. 8. *This Booke of the Law shall not depart out*

out of thy mouth, but thou shalt meditate therein day and night; that thou mayst observe to doe according to all that is written therein: turne not to it from the right hand, or to the left: for then thou shalt make thy way prosperous, and then thou shalt have good successe. Hence it was, that as soon as ever *Saul* was elected and made King by *Samuel* and the people, he being the first of their Kings) *Samuel told the people the manner of the Kingdom, and wrote it in a Booke, and laid it up before the Lord: which Booke, contained not the exorbitances and oppressions that their Kings would exercise over them, mentioned in the* 1 *Sam.* 8. 11. *to* 19. as *Iosephus* mistakes; but as *Petrus Cunæus and* (q) *others* more rightly observe, *the Law of God concerning Kings, prescribed by him, Deut.* 17. 14. to the end; *and such Lawes which commanded Kings to use Iustice and equity; to govern the Common-wealth well, for the peoples best benefit; to abstaine from fornication and lusts; to retain modesty in a great fortune, &c.* Hence *Samuel* enioyned *both Saul and the People, to feare the Lord, and serve him, and obey his voyce, and follow him, and not rebell against his Commandement, &c.* 1 *Sam.* 12. 14, 15. 20. *to* 25. Hence *King* (r) *David did alwayes meditate in the Law of God, day and night, accounting it more deare unto him then thousands of Gold and silver:* And withall pronounceth from Gods own mouth; (*s*) *The God of Israel said, the Rocke of Israel spake to me, he that ruleth over men must be just, ruling in the feare of God.* Hence the (*t*) *Qu. of Sheeba* used this speech to king *Solomon, Because the Lord loved* Israel *for ever, therefore made he thee King* (what? *to domineere at his pleasure? nay verily, but*) **To doe Iudgement and Iustice.** Vpon this ground, (*u*) *King* Iosiah *made a covenant before the Lord, to walke after the Lord,* **And to keep his Commandements, and his testimonies and his statutes** *with all his heart, and with all his soul; And King* (*x*) Asa, *with other Princes and Governors did the like,* as the premises evidence: From all which, (*y*) *and infinite other Scriptures, obliging Kings to reign in righteousnesse, to doe justice and judgement to all, and* (*z*) *reprehending them exceedingly for their injustice, tyranny, oppressions, idolatries, and other sinnes;* it is irrefragable; that their kings were as much, if not more obliged to keep both *Gods* and the kingdomes Lawes, as the Subiects; and had no arbitrary power to doe what they pleased.

(q) Vid. Bracton Vindic. contr. Tyrannos qu. 3. f. 121, 122. Alberic. Gentilis de Iure Belli l. 3. c. 15. p. 612.

(r) *Ps.* 1. 1, 2. *Ps.* 19. 10. *Ps.* 119 th ongh out.

(*s*) 2 *Sam.* 23. 3.

(*t*) 1 *King.* 10. 9. 2. *Chron.* 9. 8.

(*u*) 2 *Chron.* 34. 31.

(*x*) 2 *Chron.* 15. 12. *to* 17. *Esra* 10. 3 &c. *Neh.* 9. 38. c. 10. 1. *to the end.*

(*y*) *Isa.* 9. 7. c. 16. 5. c. 32. 2. 2 *Sam.* 5. 12. *Ezek.* 45. 8, 9.

(*z*) *Isay* 1. 23. c. 12. 14, 15. *Zeph.* 3. 3. *Mich.* 3. 9. *to* 12. *Ezek.* 22. 6. *to* 28. *Isa.* 14. 4. *to* 23.

All that is, or can be colourably obiected to the contrary, to prove the kings of Israel absolute Monarchs, exempt from Lawes, and paramount their Sanhedrin or people collectively considered, is, First, that passage of *Psal.* 51. 4. where king *David* confessing his sinnes of Adultery and Murther to *God*, useth this expression; *Against thee,* **Thee onely** *have I sinned, and done this evill in thy sight:* Of which (*a*) *Hierom* renders this reason, *Quod Rex erat & alium non timebat: alium non habebat super se:* which *Ambrose* thus seconds, *Rex erat,* **Nullis ipse legibus tenebatur,** *quia liberi sunt Reges a vinculis delictorum: Neque enim ullis ad pœnam vocantur legibus,* **Tuti Imperii potestate,** *Homini ergo non peccavit, cui non tenebatur obnoxius* (*c*) *Arnobius & Cassiodor,* adde, *De populo si quis erraverit, & Deo peccat & Regi: quando Rex delinquit, soli Deo reus est: Merito ergo Rex, Deo* **Tantum** *se dicit peccasse; quia solus erat qui ejus potuisset admissa discutere.* The like we finde in *Isiodor. Epist.* 383. which some Iewish Rabbins back with this saying of *Barnachmon, titulo de Iudicibus Nulla creatura judicat Regem, sed Deus benedictus:* Therefore the Iewish kings were above all Lawes, and not subiect to the censures of their Congregations, States, or Sanhedrin.

Object. 1.

(*a*) *Com. in Ps.* 50. & *Epist. ad Rusticam.*

(*b*) *In Psal.* 50.

(*c*) *In Psal.* 50.

(*d*) *Grotius de Iure Belli & Pacis, l. 1. c. 3. sect. 20. p. 63, 64.*

Answ. To this I answer first, That no doubt, *David* by his adultry and murther (being sinnes against the second Table) did sinne not onely against *God*, but (e) *against Vriah* and his wife too, their children and kinred; yea (f) *against his own soule and body*, though he were a king; That of *Iustus Eccardus, De Lege Regia*, being an irrefragable truth, granted by (g) *all Lawyers and Divines* whatsoever, *that the absoluteſt Emperors, Monarchs, Kings, that be, are subject to the Lawes of God, of Nature, of Nations, and cannot justly doe any thing against them to the hurt of pietie, chastity, fame, life, or what is contrary to good Manners.* Secondly, No doubt every king is bound in conscience by the Law of *God* and man, to give satisfaction and recompence to his Subiects against whom he sinneth in this nature, as *David himselfe determines in this his own case*, 2 Sam. 12. 5, 6, 7. Thirdly, For this very *sin against Vriah God threatens, that the sword should never depart from Davids house; that hee would raise up evil against him out of his own house, that he would take his wives before his eyes and give them unto his Neighbour, who should lye with them in the sight of the Sunne, before all Israel*, 2 Sam. 12. 10, 11, 12. which was *actually fulfilled in and by Absalom his sonne*, 2 Sam. 16. 22. The gloſſe therefore of theſe Fathers, *that David was exempt from all Lawes being a King, and that he could not sinne against a Subject*, is point-blank against the Hiſtory, and Text it selfe; and manifested to be apparantly false by all the premised Scriptures and Authorities. Fourthly, the true reason of this speech of *David, Against thee, Thee onely have I sinned, and done this evill in thy sight*, as *Auguſtine* (h) and others truly obserue was: 1. Becauſe *David had plotted and contrived the murther of Vriah, and abusing of his wife so closely, that no man did or could take notice of it*; whence *Nathan* the Prophet tells him, 2 *Sam.* 12. 12. *Thou didst it* Secretly, *but I will do this before all* Israel: *sed forte erat quod homines latebat, & non inveniebant illi quod erat quidem, sed manifeſtum non erat*, writes *Auguſtine*: 2. Becauſe *Vriah* being slain, and his wife a party consenting to *Davids* sinne, his sinne now might in this sence be said, *to be against God alone.* 3. sinne, *quatenus sinne*, and as it deserves eternall punishment, is properly committed against none but *God, whose Law and prohibition only makes it sinne*; therefore in this regard, *David* now confessing his sinne to God himselfe, useth this expression and rhetoricall ingemination, *Against thee, thee only have I sinned.* 4. Becauſe none was free from sinne, and so fit to be his Judge in that respect but *God* onely. 5. *Only*, is many times taken for principally or especially; as we usually say, *such a one is the onely man*; *such a salve or medicine, is the onely remedy*; and the Scripture useth this phrase in this sence in *Davids* owne case, 1 *King* 15. 7. *David did that which was right in the eyes of the Lord, and turned not aside from any thing that he commanded him all the dayes of his life, save ONELY in the matter of Vriah*, that is principally, for he committed divers sins besides, as *in numbring the people, in giving Mephibosheths land to Ziba upon a false suggeſtion*, himselfe confessing (m) *that his iniquities were gone over his head, and his sinnes more then the haires of his head:* but yet this was his *ONLY*, to wit, his principall sinne: so in divers others Texts, *onely* is used for principally; as *Iosh.* 1. 7, 18. *Onely be thou strong*; 1 *Sam.* 18. 17. *Onely be thou valiant:* So here, *against thee, thee only have I sinned*; that is, I have principally sinned against thee alone, not excluding his sinne against himselfe, *Vriah*, and others, whom he injured thereby. 6. This sinne against (n) *Vriah was but a personall and private injury, into which David fell out of humane frailty, it was the first and onely*

(e) 1 *Sam.* 2. 25. 2 *Chron.* 6. 22. *Deut.* 22. 23, 24. *Ezek.* 18. 6, 7, 11
(f) *Prov.* 20. 2. 1 *Cor.* 6. 18.
(g) *See Grotius de Iure Belli, l.* 2. *c.* 14. *ſ.* 20. *Marius Salamonius de Principatu lib. Rebuf Præfat. ad Rubr de Collationibus, p.* 583.
(h) *In Pſ.* 50. *Marlorat, Molterus, Muſculus, Calvin, Bredenbachus, Bretius Bucanus, Brevo, Bugenhag. Fernerius, Haymo, Gualter, Rolloc, Savanoerola, Scultetus, Gilbert Cognatus, Weſthemerus, Zegodinus Wolfg. Sebcrius in Pſal.* 51.
(i) *Rom.* 2. 12. 14. 15. *c.* 3. 20. *c.* 5. 13. *c.* 7. 7. 1 *Cor.* 15. 56. 1 *Ioh.* 3. 4.
(k) 2 *Sam.* 24. 10. *to* 20.
(l) *Sam.* 16. *&* 19. 28, 29.
(m) *Pſal.* 40. 12 *Pſal.* 38. 3, 4.
(n) *See De Iure Magiſtratus in ſubditos. p.* 301, 302.

sinne

sin of this kinde that ever he committed, for ought we read; he made no trade of it, he repented for it, and never relapsed again into it: in this regard therefore these Fathers interpretations may be Orthodox, that *for such a private sin of infirmitie onely*, David *was not responsible nor punishable by the Congregation or Sanhedrin*: But had he made a common trade of murthering his subjects, ravishing their wives, and the like; or giving himselfe over to the open practice of grosse Idolatry, (a sin onely against God himself) and not repented of, or humbled himself solemnly for it, as he did for these sins here, no doubt the Congregation or *Sanhedrin* might upon complaint, have questioned, reprehended, and censured him for it, as the premisses plentifully manifest. notwithstanding the priviledge of his regalitie, which, as it exempted him not from the guilt, so not from the punishment due unto such Crimes, whether temporall or eternall: not *from the* (o) *eternall*, which is the greatest, that is certain, therefore not from the temporall, which is the lesse. Finally, God himself threatens, that (p) *If* Solomon *or any Kings of* Davids *Seed should forsake his Law, and not keep his Commandments, but commit iniquity against him, he would chasten them with* the Rod of Men, and the Stripes of the Children of Men; whence the (q) *Rabbins* write, *That if their Kings transgressed against the Law of the King, they were and might be scourged for it, without dishonour, by a man whom themselves made choice of*: Therefore they might be justly censured and punished by men for their transgressions against God alone, notwithstanding this glosse of these Fathers, true only in som sence in private cases, and sins of infirmity against private men, not of publike habituall transgressions.

(o) *Isay* 30. 33. *Rom* 6. 15. 16.
(p) 2 *Sam.* 7. 14 *Psa.* 89. 30, 31, 32.
(q) *Hugo Grotius de Iure Belli & pacis. l.* 1. *c.* 3 *sect.* 10, *p.* 64.

The second Objection, is that Speech of *Samuel* to the people, 1 *Sam.* 8. 11. to 19. *This will be the manner of the King that shall reign over you; He will take your sons and daughters, and appoint them for himself, &c. And he will take your fields, and your Vineyards, and your Oliveyards, even the best of them, and give them to his servants. And he will take the tenth of your seed, and of your Vineyards, and give to his servants: And he will take your manservants, your maidservants, your goodliest young men and your Asses,, and put them to his service; he will take the tenth of your sheep, and ye shall be his servants; And ye shall crie out in that day, because of the King whom yee have chosen you, and the Lord will not hear you in that day.* Therefore their Kings were absolute Monarchs, not bound to Laws, nor responsible to their subiects for their oppressions, nor yet resistible by them. *Object.*

To which I answer, that this is a direct description of a *Tyrant*, and not of a *lawfull* King; as is evident, *Answ.* 1.

First, by the very occasion of the words; *Uttered purposely by* Samuel *to dissuade the People from electing a King, & changing their former Aristocraticall Government, into a Monarchicall*; because their kings would many of them prove more oppressive, Tyrannicall and burthensome to them then their Iudges or his sons were, whose bribery and perverting of judgment, moved the people thus earnestly to affect a change of Government, as is evident by the 1, 2, 3, 4, 5, 6, and 9 Verses; (*f*) *Iosephus*, and the consent of all Expositors. (*f*) *Antiq. Iud.* 6. *c.* 4.

Secondly, by the introduction to, and the words themselvs, *This* will be *the maner of the King that shall reign over you,* He will *take, and* he will *do thus and thus*; not this ought to be the manner, he ought to do, or lawfully may do thus and thus. 2.

Thirdly, by the things themselves which he would do, which are directly contrary to *Deuter.* 17. 14. to the end; and all other Scriptures, expresly enjoyning Kings

(t) 2 *Sam* 23.3 *Psal*.67.4. *Pro*.31 9. *Isay*.32.1. 2 *Chron* 9.8.

(t) *to judge their people righteously, to do justice and judgement, and not any wayes to oppresse or spoyle them.* I shall instance onely in two particulars.

(v) *Exod*.20. 17. *Deut*.5.21.

First, the law of God expresly *prohibits* (v) *all men* (and *Kings* as well as others) *to covet their neighbours House, his menservants, his maidservants, his Oxe, or his Asse, or any thing that is his Neighbours*: If their *Kings* then might not lawfully so much as desire or covet, much lesse might they lawfully take away their Houses, Sonnes, Daughters, Manservants, Maidservants, Asses, Sheep, Corn, Vineyards, or any thing else that was theirs, without their free consents, as *Samuel* tells them their *King* would do; this therefore must needs be onely a declaration of what their *Kings* would Tyrannically do, not of what they might lawfully or justly execute.

Secondly, it is Gods expresse Edict, *Ezek*.46. 18. *The Prince shall not take the Peoples inheritance by oppression, to thrust them out of their possessions, but he shall give his Sons inheritance out of his own possession, that my people be not scattered every one from his possession.* And *Ezek*.45.8,9. *The Land shall be the Princes possession in Israel, and my Princes shall no more oppresse my people, and the rest of the Land shall they give to the house of Israel according to their Tribes: Thus saith the Lord God, Let it suffice you, O Princes of Israel; remove violence and spoile, and execute judgement and justice; take away your exactions* (or expulsions) *from my people, saith the Lord.* Whence

(x) 1 *King*. 21. 2 &c 15.

(x) *Ahab King of Israel for coveting, and unjustly depriving* Naboth *of his Vineyard, which he refused to sell him, because it was the inheritance of his Fathers, and taking possession thereof after his unjust condemnation, had a most severe judgement denounced against him, even the utter extirpation of himself,* Jezabel, *and their posterity*, afterwards executed: Which punishment God would never have inflicted on them, had it been lawfull for the *Kings* of *Israel to take the peoples Fields, Vineyards, Oliveyards, &c*, and possesse or give them to their servants, as *Samuel* here tels them their *Kings* will do: This clause then of taking their *Fields, Vineyards, &c.* from them, by the *King*, without their consents, being thus diametrally contrary to these Texts of *Ezekiel*, and such a capitall Crime in *King Ahab*, (yea, contrary to the practise of *Ioseph*, and the *Ægyptian Heathen King* Pharaoh, *who took not away, but bought the Ægyptians Cattell and Lands for Corne*, Gen. 47. 14, to 27.) can no wayes be warranted as a just royall prerogative lawfull for their *Kings* to use, but must needs be branded for a Tyrannicall Oppression.

Fourthly, this is evident by the consequences of it, *Ye shall be his servants*, (not subjects;) *And ye shall crie in that day because of your King which ye have chosen you, and the Lord will not hear you in that day*, *Verse* 17, 18. Certainly the people neither would nor ought to crie to god against the proceedings of a just upright *King*, but onely of a Tyrant and Oppressour; therefore this Text must needs be meant of such a one, who should be a scourge and punishment to them, as Tyrants are, not a blessing as good Kings alwayes be.

Fifthly, consult we with all Polititians whatsoever, this description suites onely with a Tyrant, not with any lawfull *King*: and that it is meant of such a one, we have the te-

(y) *Antiqu. Iud*.l.6.c.4.5.

stimony of (y) *Iosephus*, the generall concurring suffrage of all Gommentators and Expositors one the place (see *Lyra, Hugo de Sancto Victore, Carthusian, Angelomus Lexovienses, Calvin, Brentius, Bugenhagius, Beda, Bertorius, Martin Borrhaus, Peter Martyr, Zanchius, Piscator, Serrarius, Strigelius*, Doctor *Willet*, *Deodate*, the English Bibles notes, with others) and of sundry who descant on this Text in other

writings;

writings; by name, of M. *John Calvin, Instit. l.4 c.20. sect.26.* Bishop *Ponet* his Politicall Government. *p.44. Iunius Brutus Vindiciæ contra Tyrannos, qu.3. p.121.122.134. 135.153.154.155.159. De Iure Magistratuum in Subditos, p. 270.271. Bucholceri Chronichon. p.268. Petrus Cunæus, de Repub. Hebræor. l.1. c.14. Bertrami, Politia Iudaic. p.53. Shickardus jus Regium Iuda. p.64. Albericus Gentilis de jure Belli, l.3. c.15. p.613. Hugo Grotius de jure Belli & Pacis, l.1. c.3. Adnotata. p. 72. Governado Christiano, p 87. Georgius Bucananus de jure Regni apud Scotos, p. 44. Dolman. p.68 70. Hanon. disp. polit. p 432. Weemse 2 Vol. 2. Part. p.14. Hotomani, Franco-Gallia, c. 10. Amesius de Casibus Conscientiæ, p.306.* and (to name no more in so plain a case) of Doctor *Ferne* himself, in his Resolving of Conscience, *sect. 2. p.10.* where hee writes, *That* Samuel *here tels the people, how they should* be oppressed *under Kings; yet* all that violence and injustice done unto them, *is no cause of resistance, &c.* This Text then being cleerly meant of their *Kings* Oppression, violence, injustice against Law, right, and a clear description of a Tyrant, not a *King*; I may safely conclude from all the premises, that even among the Israelites and Iews themselves, their *Kings* were subject to the Lawes, and that the whole Congregation, *Kingdom*, Senate, Sanhedrin, not their *Kings*, were the Supreme Soveraign power, and Paramount their *Kings* themselves, whom they did thus freely elect, constitute, and might in some cases justly censure, resist, depose, (if not put to death) by common consent, for notorious grosse Idolatries and publike multiplied crimes, as the forecited authors averre. All which considered, eternally refutes, subverts, confounds the erronious false Positions and Paradoxes which Doctor *Ferne*, *Griffith Williams* Bishop of *Ossery*, the Authour of *The necessitie of Subjection*, with other late ignorant Pamphletters, have broached to the contrary, without either ground or presidents to warrant what they affirm, touching the absolute Soveraignty, Monarchy, irresistibilitie, incorrigibility of the *Kings* of Iudah and Israel by their whole States, Congregations, *Kingdoms* generall assents, and utterly takes away those sandy fabulous foundations upon which their impertinent Pamphlets against the Soveraign Power of Parliaments, *Kingdoms*, and the illegality of Subjects taking up defensive Arms against Tyrannicall Princes, bent to subvert Religion, Laws, Liberties, the Republike, are founded; which must now needs vanish into nothing, before this Catholike, irrefragable clear-shining verity, abundantly ratifyed by innumerable presidents in all eminent *Kingdoms*, States, Nations, that either have been in any former ages, or are yet extant in the world; which must and will infinitely over-sway, swallow up the inconsiderable contrary opinions of some few privadoes, who (either out of flattery, hopes of getting, or keeping undemerited preferments, fear of displeasing greatnesse, or inconsiderate following of other reputed learned mens mistakes, without due examination of their erronious Tenents) have engaged themselves in a Polemicall blinde Combate against these infragable transparent Verities; whose defence I have here made good against all their misprisions, and bootlesse assaults.

Having now Historically ran over the most eminent Empires, *Kingdoms* of ancient and present times, in a kinde of confused method, their copious vastnesse and varietie being so boundlesse, and my time to collect them so small, that I could hardly marshall them into any comely distinct Regiments, or reduce them to the particular Heads debated in the premises; I shall therefore for a conclusion deduce these distinct Conclusions from them, to which the substance of all the recited Histories may be aptly

ly reduced, and are in truth abundantly confirmed by them beyond all contradiction, annexing some new punctuall Authorities of note, to ratifie and confirme them.

Observ. 1. First, it is undeniably evident from all the premises, *That all Monarchies, Empires, Kingdoms, Emperours, Kings, Princes in the world, were originally created, instituted, ordained, continued, limited, and received all their jurisdiction, power, Authoritie both from, by, and for the people, whose Creatures, Ministers, Servants they are, and ought to be.* If we survey all the severall Lawfull Monarchies, Empires, Principalities, Emperours, and *Kings*, that either have been, or yet are extant in the world; we finde all sacred and prophane Histories concurre in this, that *they had their originall erections, creations from, by, and for the People*; Yea, we read the very times when, the most Monarchies of note were instituted, the Names of those on whom the first Monarchies were conferred, (by the peoples free election onely) yet extant on record in most Histories, and withall expresse relations, of many different kinds of *Kingdoms*, *Kings*, in respect of succession, continuance, Power, jurisdiction, scarce any two kingdoms, or their *Kings*, being alike in all things in regard of Prerogatives & jurisdictions; all Histories & Polititians concurring, resolving with (z) *Peter*, that *Kings are* humane Creatures or Ordinances, *instituted*, diversified thus by men, and the people alone, out of Gods generall or speciall providence, not one of them all being immediately or directly ordained by God, as the onely efficient cause, without the free concurrence, consent and institution of the people. This truth, is not onely ratified by *Lex Regia*, whereby the *Roman* Emperours were created, yea, invested with all their power; registred by *Iustus Eccardus de Lege Regia, & Marius Salamonius de Principatu, l.6.* (a) formerly transcribed; by *Plato, Aristotle, Xenophon, Berosus, Polybius, Cicero, Livy, Iustin, Plinie, Strabo, Plutarch, Dionysius Hallicarnassæus, Diodorus Siculus, Pausanias, Solinus, Alexander ab Alexandro, Hermannus Schedell, Herodotus, Boëmus, Pomponius Mela*; forecited, and generally by all *Historians, Chronologers, Antiquaries, Lawyers, Politians* whatsoever; but directly averred and proved by *Franciscus Hotomanus* (a famous Lawyer) in his *Franco-Gallia, c.1.& 10*, 13. the Author of *De Iure Magistratus in subditos, Quæst. 5 p.239,240, &c. Thomas Garzonius Emporij Emporiorum, Pars 1. Discursus 1. de Dom. p.13. Vasquius Controvers. Illustrium, 12. n.133. 59. n. 8. 61. n.22. 80. n.4. 108. n. 29. 141. n.2. Covarunius, Quæst. Illust. T.2. 396. n.2.4. Hugo Grotius de Iure Belli, l.1. c.4. sect. 7. l.2. c.14. sect.11.* and elsewhere; *Marius Salamonius de Principatu*; *Eccardus de lege Regia*, with others cited by them: *Hookers* Ecclesiasticall *Polity. l.1. sect.10. p.69, 70, 71.* (a pregnant place) *Albericus Gentilis de Iure Belli, l.3. c.10.15. Ioannes Mariana de Rege & Regum Instit. l.1. c.1. to 10. Sparsim, & Iunius Brutus, Vindiciæ contra Tyrannos, Quæst.3. p.83.* to 94. with whose words I shall close up this observation, (having (b) elsewhere particularly proved the verity thereof, and answered all Obiections against it from misinterpreted Scriptures:)

(z) 1 Pet.2,13.

(a) Part.3. p. 110, 111.

(b) Part 3. p. 115, to 122.

, We say now (writes he) that the people constitute Kings, deliver Kingdoms, ap-
, prove Kings elections, with their suffrages; which God would have to be thus, that
, so whatsoever authority and power they should have, they should, next to him, re-
, ferre it to the people, and therefore should bestow all their care, thoughts, industrie
, for the peoples profit; neither verily should they think themselves advanced above
, other men for their excellency of nature, no otherwise then men are over Heards
, and Flocks, but should remember, that being born in the same condition with

, others,

, others, they were lifted up from the ground unto that condition by the ſuffrages, as it
, were, by the Shoulders of the people, upon whoſe Shoulders the burthen of the Com-
, mon-weale ſhould for a great part reſt. After which he proves by *Deut.* 17. and
, divers forecited preſidents in Scripture, that God gave the Election and Conſtituti-
, on of the kings of Iſrael to the people; and that notwithſtanding the ſucceſſion of the
, kingdom of *Iudah* was by God entailed afterwards to the Linage of *David*, yet
, the Kings thereof actually reigned not before they were ordained by the people.
, Whence we may conclude, that the Kingdom of Iſrael, if we reſpect the ſtock, was
, certainly hereditary, but if we regard the perſons, altogether elective. But to what
, end was this, if the Election appear, as it is confeſſed, but that the remembrance of
, ſo great a dignitie conferred by the people, ſhould make them alwayes mindefull of
, their duty: So likewiſe among the Heathens we read, that Kings were conſtituted by
, the people; for when they had wars abroad, or contention at home, ſome one man, of
, whoſe fortitude and juſtice the multitude had a great opinion, was by common con-
, ſent aſſumed for King. And among the (c) *Medes*, ſaith *Cicero*, *Deioces* was of an
, Arbitrator made a Iugde, of a Iudge created a King; and among the *Romanes* the firſt (c) *Herod. l. 1.* *Cicero, l. 1. Offic.*
, Kings were elected. Therefore when *Romulus* being taken away, the *Inter-regnum*
, of the hundred Senators was diſpleaſing to the Romans, they accorded, (d) that af- (d) *Livius, l. 1.*
, wards Kings ſhould be choſen by the Suffrages of the people, the Senate approving
, it: And *Tarquin* the proud was therefore reputed a Tyrant, for that being created
, neither by the people nor Senate, he held the Empire onely by force and power:
, Wherefore *Caſar* although he invaded the Empire by force, yet that he might coſen
, the people at leaſt with ſome pretext of Law, would ſeem to have received the Em-
, pire from the Senate and people: But *Auguſtus* although he was adopted by *Ca-*
, *ſar*, yet he never bare himſelfe as heire of the Empire, by diviſe; but rather re-
, ceived it as from the Senate and people; as did alſo *Caligula*, *Tiberius*, *Claudius*;
, whereas *Nero*, who firſt invaded the Empire by force and wickedneſſe without any
, colour of Law, was condemned by the Senate. Since then no man could be born an
, abſolute King, no man can be a King by himſelfe, no man can reigne without the
, people: Whereas on the contrary, the people may both be, and are by themſelvs, and
, are in time before a King; it moſt certainly appears, that all Kings were firſt conſtitu-
, ted by the people. Now albeit that from the time that Sons or Nephews imitated the
, vertues of their parents, they ſeem to have made kingdomes as it were hereditary
, to themſelves in certain Countries, where the free power of Election may ſeem in
, ſome ſort to have ceaſed, yet that cuſtome hath continued in all well conſtituted
, kingdomes, that the children of the deceaſed kings ſhould not ſucceed untill they
, were as *de novo*, newly conſtituted by the people, nor ſhould not be acknowledged
, as heires to their Fathers, but ſhould onely then at length be reputed kings, when
, they had as it were received inveſtiture of the Realme from thoſe who repreſent the
, Majeſty of the people, by a Scepter and Diadem. In Chriſtian kingdomes which at
, this day are ſaid to be conferd by ſucceſſion, there are extant moſt evident footſteps of
, this thing. For the kings of *France*, *Spain*, *England*, and others are wont to be inau- * *Sutcliffe, par. 1. p. 53. to 78.*
, gurated, and as it were put into poſſeſſion of the Realm by the States, Senators, No-
, bles and great men of the Realm, who repreſent the univerſality of the people, in the
, ſame manner as the Emperours of *Germany* are by the Electors, and the kings of
, *Poland* by the Vayuods or Palatines, where the intire right is onely by election, nei-
, ther

, ther is royall Honour yeelded to them in the Cities of the kingdomes, before they , have been duly inaugurated: Neither also heretofore did they compute the time of , the reigne, but from the day of the inauguration, which computation was accurate- , ly observed in *France*: And that we may not be deceived by reason of any continu- , ed stories of succession; even in those very kingdoms, the States of the Realme have , oft times preferred a kinsman before a sonne, the second sonne before the eldest; as , in *France*, (e) *Lewis*, the brother, before *Robert* Earl of *Dreux*; also *Henry*, the se- , cond brother, before *Robert Capet* the Nephew, with others elsewhere: Yea, and the , same kingdome by **Authority of the People**, hath been translated from one Nation , and Family to another, whiles there were lawfull heires extant; from the *Merouingi* , to the *Carlingi*, from the *Carlingi* to the *Capets*; which hath been likewise done in , other Realms, as it sufficiently appears out of the trueſt Histories. And that we may , not recede from the kingdome of *France*, which hath ever been reputed the pat- , tern of the rest, in which, I say, succession seemes to have obtained greatest strength: , We read that *Pharamond* was elected, *Anno* 419. *Pipen*, *An.* 751. *Pipens* sonnes, , *Charles* the great and *Charlemain* 768. not having respect of the Father; *Charlemain* , being at last taken away 771. the Brothers part did not immediatly accrue to *Charls* , the Great, as is usually done in inheritances, but by the determination of the people and publike Councell: and by them *Ludovicus pius* was elected, *An.* 812. although , he were the sonne of *Charles* the great. Yea, in the very Testament of *Charles*, which is extant in *Nauclerus*, he **Intreats the People by the Common Councell of the Realm to elect one of his nephews who they pleased**; as for his Vncles he bids the rest satisfied with the **Decree of the people.** Whence *Charles* the bald, Nephew by *Lewis* the godly and *Iudith*, professeth himselfe **An elected King** in *Aimoinius* the Historiographer. In summe, all kings whatsoever, from the beginning were **Elective**; and , those who at this day strive to come to the kingdome by succession, must of neces- , sity be **First ordained by the people.** Finally, albeit the people by reason of certain , egregious merits, hath in certain Realmes used to chuse kings out of the same stock, yet they chuse the stock it self, nor the branch; neither do they so chuse it, but if it degenerates, **They may elect another**: But even those who are neereſt of that stock, are not so much born, as made kings; are not so much accounted kings as the At- , tendants of kings; which *Franciscus Hotomanus* in his *Franco-Gallia*, *cap.* 6. 7. & 10. prosecutes more at large, and manifests by sundry pertinent Presidents and Authorities.

(e) *Analas Gilly.*

Observ. 2. Secondly, *that it is apparant by all the premised Histories*; *That in all Empires, Monarchies, the whole Empire, State, Kingdome, with the Parliaments, Senates, States, Diets, publike Officers and generall Assemblies which represent them, are the Supreameſt Soveraign power, superiour to the Emperours, Kings and Princes themselves; who are subordinate Ministers and servants to them, elected, created by them for their common good; and not absolute Soveraign Lords or Proprietors to rule & domineer over them at their pleasure*: Which conclusion you shall find abundantly ratified, and professedly maintained by *Marius Salamonius*, *de Principatu*, in six severall Books; by *Iohn Mariana*, *de Rege & Regis Instit. l.* 1. *c.* 8. *Stephanus Iunius Brutus*, his *Vindiciæ contra Tyrannos*, throughout, especially *p.* 91. *to* 110. the Treatise, *De Iure Magistratus in Subditos*, throughout: *Iustus Eccardus*, *de Lege Regia*: *Henricus Ranzovius*; *Commentarii Bellici*, *lib.* 1. *c.* 3. and elsewhere: *Georgius Obrechtus*

(an

(an eminent Civill Lawyer) *Disputationes Iuridicæ, de Principiis Belli, sect.* 115. to 200. where he thus resolves, (*f*) *The inferiour Magistrates, as in Germany the Electors, Princes, Earles, Imperiall Cities; in France the Peers of France, in Poland the Vayuodes or Palatines, and in other Kingdomes the Nobles, Senators, and Delegates of the Estates, as they are severally inferiour to the Emperour or King,* **Ita Universi Superiores existunt**, so collectively **They are superiour to them**; as a *Generall Councell is above the Pope, the Chapter above the Bishop, the University above the Chancellor; The Prince, saith* (*g*) *Pliny the second, even the greatest, is obliged to the Commonwealth by an Oath, as its servant, ac ipsa Republica seu Regno* **Minor est**, *and is lesse then the Republike or Kingdome it selfe:*) by *Franciscus Hotomanus* a learned French Lawyer, in his *Franco-Gallia, c.* 6, 7. 10, 11. 14, 15, 16, 18, 20. *Aquinas, de Regimine Principum, c.* 6. by *Hemingius Armisæus, De Auctoritate Principum in populum, &c.* and *De Iure Majestatis, Sebastianus Foxius, De Regni Regisque Institutione; Vasquius Controvers. Illustrium passim, Cavarruvius Contr. Illustr. T.* 2. 505. *n.* 1. 399. *n.* 6. *Hanon Disp. Polit. p.* 179. &c. *Althusius Polit. c.* 4. *p* 146. *to* 154. with *John Calvin Instit. l.* 4. *c.* 20. *sect.* 31. and divers others forecited: Heare (*h*) *Iunius Brutus* instead of all the rest to this particular, being a Frenchman by birth, and writing his mind herein both freely, accutely and ingeniously, in these words:

(*f*) *Num.* 127, 128, 129.

(*g*) *Panegyr. Traian. dictus.*

(*h*) *Vindiciæ Contr. Tyrannos printed* 1589. *Quæst.* 3. *p.* 91. *to* 111.

, Now verily, since Kings are constituted by the people, it seems necessarily to follow, *populum universum Rege potiorem esse*, **That all the people are better and greater then the King.** For such is the force of the word, that whoever is constituted by another, is reputed lesse then him; he who receiveth authority from another, is inferiour to his Author. (*i*) *Potipher* the Ægyptian appointed *Ioseph* over his family, (*k*) *Nebuchadonozer* set *Daniel* over the Province of *Babylon*; (*l*) *Darius* set an hundred and twenty Princes over the Kingdome. Verily Masters are said to appoint servants; Kings Ministers; so likewise the people appoints the King, as the Minister of the Commonweale; which title good Kings have not contemned, and ill Kings have affected, so that for some ages, none of the Roman Emperours, but an apparant Tyrant, such as *Nero, Domitian, Caligula*, would be called *LORD*. Moreover it appeares, that Kings were instituted for the peoples sake; neither wilt thou say, that for an hundred Homuncices more or lesse, (for the most part far worse then the rest) all interiours whatsoever were created, rather then they for them. Now reason requires, that he for whose sake another exists, is to be accounted lesser then he. Thus the Governour of a Ship is instituted by the owner for the Shippes sake, who sits at the Helme, lest the Ship should be broken on the Rocks, or ill hold her course. And verily whiles he intends this businesse, the other Mariners serve him, and the owner himselfe obeyes him; and yet he is a servant of the Ship, as well as any mariner, neither differs he from a mariner in gender, but in kind: In the Republike, which is usually compared to a Ship, the King is in place of a Master, the people of an Owner: Therefore to him seeking the publike safety, the people obey and submit; when notwithstanding he is, and ought no lesse to be accounted a servant to the Republike, as well as any Judge or Captain, neither differs he from those in any thing, but that he is bound to beare greater burthens, and undergoe more dangers: Wherfore verily what things soever the King acquires in warre, or when he gaineth adjoyning Coasts by right of warre or by sentence of Law, as those things

(*i*) *Gen.* 39. 4.
(*k*) *Dan.* 2. 48.
(*l*) *Dan* 6. 1.

, which are brought into the Eſchequer, he acquires to the Kingdom not to himſelfe ;
, to the people, I ſay, which conſtitute the kingdome, no otherwiſe then as a ſervant
, (purchaſeth) to his Lord ; neither can any obligation be contracted with him, but
, by their authority. Furthermore, innumerable people live without a king, but thou
, canſt not conceive a *King* without a people, ſo much as in thy mind. Neither have
, ſome attained a Royall Dignity becauſe they differed in kind from other men, and
, ought to rule over others by a certain excellency of nature, as ſhepheards doe over
, their Flocks; but rather, the people created out of the ſame Maſſe, have advanced
, them to that degree, that ſo if they enjoyed any authority, any power, they ſhould
, acknowledge it received from them, and poſſeſſe it as during their pleaſure ; which
(*) *Hotoman. Franco-Gallia, c. 6.* , the ancient cuſtome of the French aptly ſheweth, who * lifting their King up on a
, Buckler, proclaimed him King. For why, I pray, are Kings ſaid to have innumera-
, ble eyes, many eares, long hands, moſt ſwift feet? what, becauſe they are like to
, *Argus*, *Gerion*, *Midas*, or to thoſe whom fables have feined ? verily no, but indeed
, becauſe all the people whom it concerns, lend all their eies, their ears, their hands, feet,
, and faculties to the king for the uſe of the Republike. Let the people recede from the
, King, he who even now ſeemed eyed, eared, ſtrong and flouriſhing ; will ſuddenly
, wax blind, deafe, and fall to nothing ; he who erewhile did magnificently triumph,
, will in one moment become vile to all : he who even now was adored almoſt with
, divine honours, will be compelled to play the Schoolmaſter at *Corinth* : Over-turn
, only the baſis of this Giant-like heape, and like the Rhodian Coloſſus, it will
, of neceſsity fall, and be broken into pieces. Since therefore a King exiſts by and for
, the people, and cannot conſiſt without the people ; to whom may it ſeem ſtrange if
, we conclude, **That the People are greater then the King.**

, Moreover, what we ſay of all the People, we will have ſpoken alſo, as in the ſe-
, cond Queſtion, of thoſe alſo who lawfully repreſent all the people in every
, kingdome or City, who verily are commonly reputed the Officers of the **Kingdome**,
, not King. The Officers of the King, are created or diſcharged by the King at
, his pleaſure ; Moreover, when he dyeth they are out of place, and are in ſome ſort
, accounted dead men. Contrarily, the Officers of the kingdome, receive their au-
, thority from the people, to wit, **In a publike Councell, or at leaſt, Heretofore were**
, **wont to receive it, neither can they be diſhéred without the ſame.** Therefore thoſe
, depend on the King, theſe on the kingdome : they, from the Supreme Officer of the
, kingdome, who is the king himſelfe ; theſe, **From the Supream Dominion of the**
, **People**, from whom the king himſelfe, as well as they, ought to depend. Their
, Office is, to take care of the king : theſe mens duty, to take heed that the Common-
, wealth receiue no detriment any where: Theirs to be preſent and ſerue the *King*, as any
, domeſtick ſervants doe their Maſters ; theſe mens, to defend the rights and priuiledges
, of the people, and diligently to prouide, that the *Prince* himſelfe commit, or omit
, nothing to their deſtruction. Finally, thoſe are the *Kings* ſeruants, Miniſters, dome-
, ſticks, inſtituted only to obey him ; theſe contrarily, are as the kings Aſſeſſors in jud-
, ging according to Law and Conſorts of the Royal Empire; ſo as all theſe are bound
, to govern the Commonweal, no otherwiſe then the king is ; yet he, as a preſident a-
, mong them, may onely hold the firſt place. Now as **All the People are ſuperiour**
, **to the King** ; ſo euen theſe, although ſingle, every of them be inferiour to the King, yet
, **All of them are to be deemed ſuperiour to him.** How great the power of the firſt

, Kings

,kings was, appeares sufficiently from this; that *Ephron* king of the *Hittites*, durst not ,grant the right of a sepulcher to *Abraham* without the peoples consent; nor *Hamor* (m) *Gen.* 23. ,the Hiuite king of *Sechem*, make a league with *Iacob*, the more weighty affaires be- and 34. ,ing usually referred to the people. And vetily in those kingdomes, which at that time ,were circumscribed almost with one City, this was easie: But from that time kings ,began to inlarge their Territories, neither could all the people assemble in one place ,without confusion, Officers of the kingdome were appointed, who should ordinari- ,ly defend their rights; yet so, as when there should be need, either all the people, ,or at least a certain Epitome of them should be extraordinarily assembled. Wee see ,this order to have been in the kingdome of *Israel*, which by the judgement almost of ,all polititians, was best of all constituted. The king had his Bakers, Butlers, Cham. ,berlaines, Masters and Stewards of his House, who overlooked his Family; the ,kingdom had likewise its Officers, 71. Elders and Captains chosen out of every tribe, ,who might take care of the Republike in time either of peace or warre: and finally ,its Magistrates in every Town, who were every one to defend their Rites, as the ,others the whole kingdome (which he proves to be above their kings, and to over- ,rule them, in the * forecited passage.) Such were the 7. (n) *Magi*, or wise men in the * *Har p.* 143. ,*Persian Empire*, being as it were Consorts of the Royall Honor, and who were called 144. ,the kings eyes and eares, with whose judgement we read the kings rested satisfied: (n) *Eliod.* l. ,Such were the *Ephori* in the *Spartan* Realm, to whom they appealed from the king, ,and who did likewise judge the kings themselves; as it is in *Aristotle*; In the Æ- ,gyptian kingdome the publike Ministers were elected and assigned to the king by the ,people, onely to this end, that he should commit nothing against the Lawes. Now ,as (o) *Aristotle* every where calls those lawfull kings, to whom such Officers are ,adioyned, so likewise he feares not to say, where they are wanting, that there is not a (o) *Arist. Polit.* ,Monarchy, but either plainly a barbarous tyrannie, or a domination next to Tyran- *l.* 5. *c.* 11. *&* 6. ,nie. In the Roman State the Senators obtained this place, and the Magistrates usu- 3. *c.* 7. ,ally chosen by the people, the Tribune of the Consuls, the president of the City, and ,the rest, so as there lay an appeale from the king to the people, which *Seneca* cites out ,of *Tullies* Book of the Republike, and the History of *Horatius Tergeminus*, condem- ,ned by the Royall Iudges for the murder of his sister, and absolved by the people, suf- ,ficiently evidenceth: But under the Emperours, the Senate, Consuls, Pretors, Preto- ,rian Perfects, Presidents of Provinces, which were given to the people and Senate, ,were therefore all called the Magistrates of the people of *Rome*. Therefore when as ,by the Decree of the Senate, *Maximinus* the Emperour was iudged an enemy of the ,Republike, (p) and *Maximus* and *Albinus* were created Emperors by the Senate (p) *Herodian. l.* ,against him, *the Souldiers took an oath, that they would Faithfully obey the people of* 8. *in Orat. Ma-* ,*Rome, the Senate & Emperor*; howsoever this law might be violated under tyranny. *xmi & Albini* ,As for the Empires at this day (as the *Turkish* & *Muscovitish*, and others of this kind, *ad Milites.* ,which are rather great Robberies, then Empires) there is not one of them, which if ,not at this time, was not at least in times past governed in this manner. But if it ,be come to passe through the Magistrats fault and sloathfulnes, that in some places po- ,sterity have received a worser Common weal, notwithstanding those who at this day ,possesse these Offices, are bound as much as in them is, to revoke all things to ,their ancient state. In the *German Empire* which is conferred by election, there are ,Princes, and Electors, as well Laicks as Ecclesiasticks, Earles, Barons, Cities, Em- ,bassadors of Cities, who as they have the care of the Common weale in their severall

, places, so likewise in generall Assemblies (or diets) when there is needs, they represent , the Majesty of the whole Empire, where they are bound to care, that the Republike su- , stain no detriment by the private endeavours or hatreds of the Emperour. Therefore , there is one Chancellour of the Empire, another of the Emperour; other and different , Officers besides, both of the one, and other: divers Exchequers, divers Treasurers; and , therfore it is a cõmon saying, that **the Empire is preferred before the Emperor**, so as (q) Speculum Saxon. cum. , (q) the Emperor may be every where said **to do homage to the Empire**. Likewise in , the Realm of Poland, the Bishops, Palatines, Castellans, Nobles, Deputies of Cities and , Counties are extraordinarily assembled; in whose assembly **onely** new constitutions , are made, **and wars decreed**. But ordinarily the councellers of the Realm of *Poland*, the , Chancellor of the Polish Repub. &c. although the King in the mean time hath his own , Chamberlains, Stewards, Ministers & Domesticks. But he who will dispute among the , *Polonians*, whether the King or **the whole people of the Kingdom, represented by the , Estates of the Realm, be greater**: doth just like him who should dispute at *Venice*, whe- , ther the Duke or the Republike were the superior? But what shal we say of those king- , domes which are wont to be carried by succession? Verily the thing is no otherwise , there. The Realm of *France*, which not long since was preferred before the rest both , for the excellency of Laws and Orders, was thus constituted in times past; and al- , though those who hold that place do not sufficiently discharge their duty, yet they , are not thereby the lesse obliged to do it: The king verily hath his great Master, or , Arch-Steward, his Chamberlains, Hunters, Guard, Butlers, and the rest, whose Of- , fices heretofore did so depend on the King that he dying, themselves seemed also to , die in their Office; so that even yet, after the end of the mourning royall, the great , Master or Arch-Steward, is wont to pronounce certain conceived words, wherewith , he dismisseth the royall family, and bids every one provide for himself: Yet notwith- (r) Aimonius, l. 5. c. in Carolo Calvo. See Hotomani Franco-gallia, c. 5, 6, 10. &c. , standing the Kingdom of (r) *France* hath its Officers, the master of the Palace, who , afterwards was stiled the Earl of the Stable, the Marshals, Admirall, Chancellour, or , great Referendary, Secretaries, Treasurers, and Officers, who verily heretofore , WERE NOT CREATED, BUT IN THE GREAT PUBLIKE COVN- , CELL of the three Orders of the Clergie, Nobilitie and people; but since the stand- , ing Parliament was ordained at *Paris*, they are not thought setled in their Offices, be- (f) P. Filius. fam. Inst. quibus mod. in Patriæ pot. solvitur. , fore they be received and approved by the Senate of *Paris*, neither can they be ca- , sheer'd without their consent and authority: Now all these, first plight their faith TO , THE KINGDOM, that is, *to all the people*, after that to the King, as the Guardian , thereof; which is perspicuous even from the very form of the Oath. But especially , the Earl of the Stable, when he is girded by the King with the Liliated sword (as ap- , pears by the words which he pronounceth,) is girded to that purpose, THAT HE , MAY DEFEND AND PROTECT THE REPVBLIKE. Moreover the , Realm of *France* hath its Peers, as Consuls of the King, or its Senators, as the Fathers , of the Republike, every of them denominated from the severall Provinces of the King- , dome, to whom the King, being to bee crowned, is wont to plight his faith, as to the whole Kingdome: from whence it appeares, *THAT THEY ARE SVPERIOR , TO THE KING*: These again likewise swear, that they will defend, not the King, , *BVT THE ROYALL CROWN*; that they will assist *THE REPVBLIKE* with , their councell, and that for this end, they will be present in the sacred Councell of the , Prince in time of Peace or Warre, as manifestly appears out of the formulary of the- (t) Ravaldus Chabannus. , Peer ship: Therefore by the Law of (t) *Lombardy*, in giving sentences, they did not

onely,

, onely sit with the Lord of the Fee as Peers, but likewise heard the Causes oft times be-
, tween the Superiour Lord and his Vassall. We likewise see these Senators of *France*
, to have oft times judged between the King and Subjects, so that when *Charles* the 6.
, would have pronounced sentence against the Duke of *Britain*, they withstood him,
, and said, *THAT THE JVDGEMENT WAS NOT THE KINGS, BVT*
, *PEERS, FROM WHOSE AVTHORITY HE COVLD DEROGATE*
, *N THING.* Hence even at this day the Parliament at *Paris*, which is called the
, Court of Peers or Senators, is in some sort constituted a Iudge between the King and
, People, yea, between the King and every private man, and is bound, as with an ob-
, ligation to right every one against the King Procurers, if he invades any thing against
, Law; Besides, if the King determines any thing, or makes any Edict at home, if he
, make any compact with neighbour Princes, if any Warre be to be waged, if any
, Peace be to be made, as of late with *Charles* the fifth, **The Parliament ought**
, **to approve, and bee Authour of it**, and all things which appertain to the
, Common-wealth, ought to be registred among its acts; which verily are not ra-
, tified, untill they shall be approved by it. Now that the Senators might not fear the
, King, heretofore **none could be preferred into that Order, but such who were nomi-**
, **nated by the Senate, neither could they Lawfully be removed, but by its Autho-**
, **rity, for a lawfull cause.**

, Finally, even the Kings Letters, unlesse they be subscribed by the Kings Secreta-
, ry, and rescripts, unlesse they be signed by the Chancellour, (who hath a power of
, cancelling) have no authority. There are likewise Dukes, Marquesses, Earles, Vi-
, counts, Barons, Castellanes; also in Cities Maiors, Deputies, Consuls, in Sindeches,
, Auditors, and the like, to whom some particular Region or City are severally com-
, mended, that they may defend the People so farre forth as their jurisdiction exten-
, deth, although some of these dignities at this day are reputed Hereditary: And be-
, sides this, yearly heretofore, at least wise as often as necessity required, there was held
, an (*v*) Assembly of the three Estates, wherein all the Countries and Cities of any (*v*) *Aimoinus.*
, note, did send their Deputies, namely Commons, Nobles, Ecclesiasticks in each of
, them apart; where they publikely determined of those things which appertained to
, the Republike: Now such was evermore the authority of this Assembly, that not only
, those things which were therein accorded, were reputed sacred and holy, & whether
, Peace were to be concluded, or War to be waged, or the Guardianship of the Realm to
, be committed to any one, or a Tax to be imposed, was there concluded; but even Kings
, themselves for their luxury, slothfulnes or tyrannie, were thrust into Monasteries, & by
, their authority, even all their Ofsprings deprived of the succession of the Kingdom, no
, otherwise then at first, when as they were called to the kingdom, by the peoples autho-
, rity: verily those who consent had advanced, dissent did pull down again; those whom
, imitation of paternall vertues had as it were called into that inheritance, a degenerate
, and ungratefull minde, as it had made then uncapable and unworthy, so it did make
, them to be disinherited: From whence verily it appears, that succession truly was tole-
, rated to avoid competition, succession, an interregnum, and other incommodities of E-
, lection; but truely when greater damages would follow; where Tyranny should in-
, vade the Kingdom where a Tyrant the Throne of a King, the lawfull Assembly of
, the people **perpetually reserved to themselves an Authority of expelling a Tyrant**
, **or slothfull King**, and of deducing him to his Kindred, and of substituting a good

, King in his place. Verily peradventure the French received this from the *Gauls*,
(x) *Cæsar*, l. 5. & 7. de Bello Gallico. , (x) *Cæsar* in the fifth Book of the *Gallic War*, being the Author; For *Ambiorix* King
, of the *Eburoni*, confessed, that all that time the Empires of the Kings of *Gallia* were
, such, that the people duely assembled, had no lesse authoritie **over the King**, then
, the King over the people; which also appears in *Vercingetorix*, who pleaded his cause
Note. , before an assembly of the people. In the Kingdoms of *Spain*, especially in *Valentia* and
, *Catteloigne* of the Arragonians it is even thus, for **the Soveraignty of the Realme**, is
, in the Justice of *Aragon*, as they call it; therefore the great men, who represent the
, people, fear not to tell the King in direct terms, both in his very Coronation it self,
, and likewise every third year in the generall assembly of their Estates, **Tantum valemus nos, quantum vos**; *We are as powerfull as you*, **but the Justice of Aragon is above us both, who rules more than you.** Yea, oftentimes what things the King hath
, asked, what he hath injoyn'd, the *Iustice* hath prohibited; nay, he never dares to impose
, any tribute without the authority of that Assembly. In the Realms of **England and Scotland, the Supreme power is in the Parliament**, usually wont to be held almost
, every year. Now they call a Parliament, the Assembly of the Estates of the Realme,
, where the Bishops, Earls, Barons, Deputies of the Cities and Counties by common
, suffrage determine of the Republikes affairs, whose authority is so sacred, that what
, things soever it shall once establish, it is unlawfull (or a wicked act) for the king to
, abrogate. Likewise **all the Officers of the Realme are wont to receive their Offices from that Assembly, and those who ordinarily assist the King or Queen in Counsell.** In brief, other Christian Kingdoms, as *Hungary*, *Bohemia*, *Denmarke*, *Swe-*
, *den*, and the rest, have all their Officers of the Realm, or Consuls of the Royall Em-
, pire, who by their own Authority have sometimes used even to depose their Kings
, themselves, as Histories teach, or fresh memory sufficiently manifests: Neither is
, there verily any cause that we should think the Royall Authority to be thereby de-
, minished, or that Kings should hereby suffer as it were a diminution of their heads;
, Truly, we deem not God the lesse potent for this, because he cannot sin by himself,
, nor his Empire more restrained, because it cannot be ruined, nor grow worse; there-
, fore not a King, if that he who may offend by himself, be sustained or kept from sin-
, ning by anothers help; or if peradventure he had lost any Empire by his own negli-
, gence or fault, that he may retain by anothers prudence. What? do you think any
, man lesse healthy, because Phisitians sit round about him, who dehort him from in-
, temperance, who interdict him the eating of hurtfull meats, who likewise oft-times
, purge him against his will, and resisting? Or whether doest thou think those Phisitians
, who take care of his health, or flatterers who obtrude the most unwholsome things,
, to be more his friends? Therefore this distinction is altogether necessary to be adhi-
, bited: Some are friends of the King, others of *Cæsar*; those are friends of *Cæsar*, who
, serve *Cæsar*; those friends of the King or Emperour, who serve the Kingdom: For
Note. , since any one is called a King, for the Kingdoms sake, and the Kingdom consists in
, the people; but the Kingdom being lost or decayed, the King must altogether cease to
, be a King, or, at least, be lesse a King: those verily who shall study the profit of the
, Kingdom, are truly the Kings friends; those who neglect, or subvert the profit of the
, Realm, are truly his Enemies: and as thou canst by no means separate the Kingdom
, from the people, nor the King from the Kingdom; so neither the friends of the King
, from the friends of the Kingdom or people; yea verily, as those who truely love *Cæ-*

sar

, *far* would rather have him to be a King then a private man, nor can they have him a , King without a Kingdom, in good sooth those shall be the Kingdoms friends who are , *Cæsars*; and those who would seem to be more the friends of *Cæsar*, then of the King- , dom or people, are truly to be reputed Flatterers and most pernicious enemies. But , and if they bee truely friends, is it not manifest, that the King will become more , powerfull and stable, (as *Theopompus* said of the *Ephori* when instituted) by how , much those shall be more, and more powerfull, to whom the profit of the people or , Realm shall be commanded and committed?

, But perchance thou wilt say, You tell me of the Senators, Peers, and Officers , of the Realm, but I, on the contrary, see nothing but Ghosts, and as it were ancient , Cote-Armes in Tragedies, but I scarce any where discern any foot-steps of ancient li- , bertie and authoritie. Finally, you may see most men every where to look to their , own affairs, to flatter kings, to cheat the people; scarce any where maist thou finde , one who takes pity of the mascerated people, much lesse who will give help to the , miserable; but if there be any who are truely of that minde, or thought to be so, they , are judged Rebels, or Traitors, they are banished, and they are compelled to begge , even their very food. What? the thing is thus: It seems almost alwayes and in every , place the audacitie of Kings, or partly the prevarication, partly the slothfulnesse of *Note.* , the Nobility hath been such, that kings may seem to have usurped that licentiousnesse , wherewith most of them at this day seem to wax insolent, by a long prescription of , time, but the people may seem to have determined their Authority, or to have , lost it by not using it: For so it happens for the most part, that no man takes care for , that which all are bound to take care of, that which is committed to all, no man thinks , it is commended to him. Yet notwithstanding, against the people, neither this pre- , scription nor prevarication doth any thing. It is a vulgar saying, that no prescrip- , tion can hurt the king, or Exchequer, much lesse all the people, who are potenter then , the King, and for whose sake the Prince hath this priviledge; for why else is the , Prince only the administrator of the Exchequer, but for the people, the true proprietors , as shalbe after proved? Furthermore, is not this a known truth, that no violence, , no not in the longest lasting servitude, can be prescribed against liberty? But and if (y) *Propone-* , thou objectest, that Kings were constituted by the people, who perchance lived above *batur, C. D. de* , five hundred yeer since, not by the people extant at this day; I answer, that al- *iudiciis, ques* , though kings doe die, the people in the mean time (as niether any other Universitie) *res suas &. pa-* , never dyeth; for as flowing waters make a perpetuall river, so also the vicissitude of *ragr. ult. de so-* , birth and death an immortall people: Therefore as the *Rheine, Seine, Tyber*, is now *lation. Inter* , the same as it was above a thousand years agoe, so likewise the Germane, French, *Lil. ul. 93 parag.* , Roman people are the same, (unlesse Colonies shall have casually intervened) nei- *Sarnam. D. de* , ther can their right be any wayes changed, either by the flux of water, or change of *Verbor. oblig.* , individuals. Besides, if they attribute the Kingdom received, not to their people, but *Papian. de* , to their Father & he to his Grandfather, and so upwards, could he transfer more right *Reg. Iuris, l. 54.* , to another then himself first had? But and if he could not, (as it is certain he could , not) is it not manifest, whatsoever he shall arrogate to himself besides, that he can- , not any more usurp it then any theef? But on the contrary the people have a right of , perpetuall eviction. Therefore that the Nobles have been for a long space oppressed , in any Kingdom, can no way prejudice the people; but rather, as the servant should not , be heard, who in that he hath a very long time detained his Lord captive, should , boast, that he was not onely a Free-man, but would likewise arrogate to himself a

power

, power of life and death over his Lord: nor yet a Theefe, who becauſe he hath rob-
, bed 30. yeers, or is the ſonne of a Theefe, ſhould think himſelfe to be without fault,
, yea rather, by how much the longer he hath been ſuch a one, the more ſeverely ſhould
, he be puniſhed: So likewiſe a Prince is not to be heard or endured, who becauſe
, he hath ſucceeded to a Tyrant, or hath for a long time uſed the people like a bond-
, ſlave, from whom he hath received his kingdome, or hath offered violence to the
, Nobles, ſhould think that what ever he luſted ſhould be lawfull to him, and ought
, to be granted of right. Neither doe yeers ſubſtract any thing from the peoples right,
, but adde to the injury of the King. But what, if the Nobles themſelves have col-
, luded with the King? what, if in betraying the cauſe, they have betrayed the people
, as it were bound, into the hands of a Tyrant? ſhall the authority of the people by
, this prevarication or treaſon ſeem to be plainly transferred upon the King? whether
, I ſay, by this fact is any thing taken away from the liberty of the people, or adjoy-
, ned to the licentiouſneſſe of the Prince? You will ſay, they may impute it to them-
, ſelves, who made choiſe of ſuch men of perfidious faith. But yet theſe are as patrons
, to patronize the publike profit, and the peoples ſafety and liberty: Therfore as when
, an Advocate ſhall make a compact with the adverſary of his Client, concerning the
, value of the ſuit as they ſpeake, if he had betrayed his cauſe, he ſhould not hurt him
, at all; ſo this conſpiracie of the Nobles, as it were made to the dammage and de-
, ſtruction of the people, cannot verily detract any thing from their right; but even
, they themſelves ſhall fall into the penalty of the Law, which is promulged againſt
, prevaricators, and the Law permits the people to chuſe another patron, and to
, proſecute their right againe: For if the Roman people condemned their Emperors
, to puniſhment, who at the Caudine Gallowes had diſhonourably contracted with
, the enemies, although by compulſion, and reduced to greateſt ſtraits; and judged
, that they were no wayes obliged by that paction; ſhall not the people be much
, leſſe bound to ſuffer that yoke, which not by force, but willingly; not for feare of
, death, but out of deſire of gain, hath been thus treacherouſly put upon them? Or
, if thoſe who ought to ſhake it off ſhall impoſe it, or thoſe who might doe it, ſhall
, tolerate it? He hath many other pertinent paſſages to the ſame effect, which brevity
enjoynes me to omit; thoſe that pleaſe may read them at their leiſure in the Author
himſelfe; whoſe opinion is fortified by *Alphonſus Meneſius* his poems, annexed to
his Treatiſe.

Obſerve 2.
(a) *In his ſpeech in Parl. in his works, p. 531 c. 9*
(b) *A Collection, &c. p. 320, 321. and elſewhere.*
(c) *l. 1 c. 8. l. 3. c. 9.* (f) *l. 1. c. 17.* (g) *c. 9. to 15.* (h) *See Cooks Epiſt. to the 5. Report. & Calvins caſe.*
(i) *par. 1. & 2.*
(k) *Fox Act. & Mon. Edit. 1. in one Vol. p. 741.*

Thirdly, it is abundantly manifeſt from all the premiſes; *That Kings and Emperours alwayes have been, are, and ought to be ſubject to the Lawes and Cuſtomes of their Kingdomes, not above them, to violate, breake, or alter them at their pleaſures, they being obliged by their very Coronation Oathes in all ages and Kingdomes inviolably to obſerve them.* This verily is confeſſed (a) by K. *James*, by our (b) K. *Charls himſelf* in his late Declarations to all his Subjects; reſolved by (c) *Bracton* (f) *Fleta*, (g) *Forteſcue*, our (h) *Common and Statute Laws* (i) *forecited*; by the Year Book of 19. *H.* 6. 63. *a.* where *Fray* ſaith, *That the Parliament is the higheſt Court which the King hath, and the Law is the higheſt inheritance which the King hath, for by the Law he himſelfe and all his Subjects are ruled; and if the Law were not, there could be no King nor inheritance*; This is proued by (k) *Stephen Gardiner* Bp. of *Wincheſter* in his Letter to the Lord Protector; where he writes, *That when he was Embaſſadour in the Emperours Court he was faine there, and with the Emperours Embaſſadour to defend and maintaine,*

tain, by Commandment * in a case of Jewels, That the Kings of this Realme were not above the Order of their Laws, and therefore the Jeweller although he had the kings Bill signed, yet it would not be allowed in the Kings Court, because it was not obtained according to the Law; and generally granted by all our own (g) English Writers, is copiously asserted, and professedly averred by *Aristotle, Polit. l. 3. c. 11. 13 Marius Salomonius de Principatu.* in fixe speciall Books to this purpose, by *Justus Eccardus de Lege Regia, Thomas Garzonius Emporii, Emporiorum, Pars 1. Discursus 1. de Dominiis sect. 6. p. 9, 10. Joannis Carnotensis Episc. lib. 4. Policrat. c. 1. Bochellus Decreta, Eccles. Gal. l. 5. Tit. 1. Cap. 4. 15, 16. Hanon. Disput. Polit. p. 428. to 442. Feneſtella de Magistratu. p. 149. Ioannis Mariana de Rege & Regis Instit. l. 1. c. 9.* (an excellent discourse to this purpose) *Petrus Rebuffus, Prafat. ad Rubr. de Collationibus. p. 583, 584. Sebastianus Foxius de Rege, &c part. 1 p. 103, 109 part. 2. 192 &c Buchanon de Iure Regni apud Scotos passim, Iunius Brutus Vindiciæ contra Tyrannos, quæst. 3. p. 116. to 129.* (an accurate discourse to this effect) *Grimalius de Optimo Senatore, p. 33. 201, 205. Vasquius contr. Illustr. 16. n. 15. 19. 21. 17. n. 1. 23. 20. n. 3. 44. n. 3. 73. n. 12. 13 15. 72. n. 7.* and elsewhere. *De Iure Magistratus in subditos, passim, Polanus, in Ezech. p. 824. 854. Pareus in Rom. 13. p. 138. Francis. Hotomani, Franco Gallia. c. 6.* to the end of *Cap. 20. Sparsim, Govern ado Christiano, p. 108. Cunæus de Republ. Hebr. l. 1. c. 1. 14. Schickardus Ius Regium Hebræ p. 54. Hugo Grotius de Iure Belli, l. 1. c. 4. s. 7. l. 2. c. 14.* and elsewhere thorowout his second Book, with infinite others of all sorts: This all good Emperours and Kings in all ages have professed, as these Authors prove. Thus the good Emperour *Trajan* practised and professed; *That the Prince was not above the Laws*; Hence (i) *Apollonius Thyaneus* writing to the Emperor *Domitian*, saith, *These things have Ispoken concerning Lawes, which if thou shalt not think to reign over thee, then thy self shalt not reign*: Hence (k) *Antiochus* the third, King of *Asia* is commended, that *he writ to all the Cities of his Kingdom, if there should be any thing in his Letters he should write, which should seem contrary to the Laws, they should not obey them.* And *Anastatius* the Emperour made this wholesome sanction, *admonishing all the Judges of his whole Republike, that they should suffer no Rescript no pragmaticall sanction, no sacred adnotation which should seem repugnant to the generall Law or the publike profit, to be produced in the pleading of any suite or controversie*; enough eternally to shame and silence those flattering Courtiers, Lawyers, Divines, who dare impudently, yea, impiously suggest the contrary into Princes Ears, to excite them to Tyrannize and oppresse their subjects against their expresse Oathes (inviolably to observe and keep the Laws) their Duties, the very Laws of God and man; of which more in the seventh and eigth Observation.

Fourthly, *That Kings and Emperours can neither anull nor change the Laws of their Realms, nor yet impose any new Laws, Taxes or Impositions on them, without the consent of their People, and Parliaments*: This I have largely manifested in the first Part of this Discourse, and the premised Histories, with the Authors here quoted in the three precedent Observations, attest and prove it fully; for if the whole Kingdom, Parliament, and Laws themselves be above the King or Emperour, and they receive (l) *their Soveraign Authority from the People*, as their publike servants: It thence infallibly follows, that they cannot alter the old Laws which are above them, nor impose new Lawes or Taxes to binde the whole Kingdom, people, without their assents, they being the Soveraigne Power. This point being so clear in it self, so plentifully proved in the premises, I shall onely adde this passage out of (m) *Iunius Brutus*, to ratifie it; , If Kings cannot

* From Henry the eight and his Councell.

(g) Pencr. Polit. Government, p. 22 Helmen. p. 71. and elsewhere.

(h) Plinius 2. Panegyr. Traiano, & Eccardus, de Lege Regia.

(i) Philostratus, l. 8. & Eccardus de Lege Regia.

(k) Diodor. Hall. cardus. Eccardus de Lege Regia Iunius Brutus p. 122.

Observ. 4.

(l) Beam's Major Disput. 24. q. 3 Lan. Bochellus Decreta Eccles. Gall. l. 5. Tit. 4. c. 3. 7. 8.

(m) Vindiciæ contra Tyrannos qu. 3. p. 124, 125, 126.

Innocentius ad Regen. Tarrat. in c. quando de Iure Iurando.

, by Law change or extenuate Laws once approved without the consent of the Repub. , like, much lesse can they make and create new Laws; therefore in the German Em- , pire, if the Emperour think any Law necessary, he first desires it in the generall assem- , blies; if it be approved, the Princes, Barons, and Deputies of Cities subsigne it, and , then it is wont to be a firme Law: Yea, he swears, *that he will keep the Laws Enacted,* , *and that he will make no news Laws but by common consent.* In the Kingdom of *Poland* , there is a Law, (renewed, *An.* 1454, and 1538.) That no new Laws or Constitu- , tions shall be made, but onely by publike consent, or in any place but in Parliament. , In the Realm of *France*, where yet commonly the authority of Kings is thought most , ample, Laws were heretofore enacted in the Assembly of the three Estates, or in the , Kings ambulatory Councell; but since there hath been a standing Parliament, all the , Kings Edicts are void, unlesse the Senate approve them; when as yet the Arrests of that , Senate or Parliament, if the law be wanting, even obtain the force of a Law: So in , the Kingdoms of *England, Spain, Hungarie,* and the rest, there is, and of old hath been , the same Law: For if Kingdoms depend upon the conservation of their Laws, and the , Laws themselves should depend upon the lust of one Homuncio, would it not be , certain, that the Estate of no Kingdom should ever be stable? Would not the King- , dom necessarily stumble, and fall to ruine presently, or in a short space? But if as we , have shewed, the Lawes be better and greater than Kings, if Kings be bound to obey , the Laws, as servants are to obey their Lords, who would not obey the Law rather , then the King? who would obey the King violating the Law? who will or can refuse , to give ayd to the Law thus infringed?

Observ. 5. Fiftly, that all publike great Officers, Judges, Magistrates, and Ministers of all Realms, are more the Officers and Ministers of the Kingdom, than the Kings, and anci- ently were, and now ought to be of right elected onely by the Kingdom, Parliament, people, and not removable but by them: which is largely proved by *Iunius Brutus Vin- dicia contr. Tyrannos, qu.* 1, 2, 3. *De Iure Magistratus in Subditos, qu.* 5, 6, 7, 8, 9. with others, the Histories forecited, and *Hotomani Francogallia, c.* 6, 11, 12, 13, 14.

Observ. 6. ** See Henricus Bocerus lib. 2. de Duello, c. 4. that the Civill Law concerning Iusts, is contrary, yet the Canon Law probibiting Iusts, upon pain of excommunication, accords with the common Law.*

6. *That Kings and Emperors have no absolute power over the lives, liberties, goods, estates of their subjects, to dispose of them, murther, imprison, or strip them of their possessions at their pleasure; but ought to proceed against them in case of Delinquency according to the known Lawes and Statutes of their Realmes:* This truth is abundantly evidenced by all the pre- misses; by *Magna Charta, c.* 29. and all Statutes, Law-Books in affirmance of it; by resolution of the Judges in *Henry* 8. his reigne, *Brook. Corone* 29. *That it is Felony to slay a man in justing, and the like, notwithstanding it be done* By command of the King, for the command is against the Law and of Judge *Fortescue*, 19. *H.* 6. 63. *That if the King grant to me, that if I kill such a man, I shall not be impeached for it, this grant is void and against Law.* By *Junius Brutus, Vindiciæ contra Tyrannos, Quæst.* 3. p. 126, to 137. and the Treatise *De Jure Magistratus in subditos* in sundry places, where this undeniable verity is largely proved, confirmed, and by others forecited.

Observ. 7. Seventhly, *That Emperours, Kings, Princes are not the true Proprietory Lords or Owners of the Lands, Revenues, Forts, Castles, Shipps, Iewels, Ammunition, Treasure of their Empires, Kingdoms, to alienate or dispose of them at their pleasures; But onely the Guardians, Trustees, Stewards, or Supervisors of them for their Kingdoms use and benefit, from whom they cannot alien them, nor may without their consents or privities law-*

fully

fully dispose of them or any of them, to the publike prjudice; which if they doe their grants are void and revocable. This proposition (*n*) *formerly ratified* by many *reasons, authorities*, & sundry Historicall Passages in this *Appendix*, is not only evident by the Metropolitans usuall speech to all elected Kings, (prescribed by the *Roman Pontificall*, ratified by the Bull of *Pope Clement the eight*, (*o*) where the *Metropolitan*, when any King is presented to him to be Crowned, first demands of the Bishops, who present him; *Do you know him to be worthy of and profitable to this dignitie?* to which they answer, *We know and beleeve him to be worthy and profitable to the Church of God, and for the Government of this Realme:* After which the Metropolitan among other things, useth this Speech unto him, *Thou shalt undeniably administer Justice, without which no society can continue towards all men, by rendring rewards to the good, punishment to the evill, &c. and shalt so carry thy self that thou maist be seen to reign* not to thine owne, but to all the peoples profit, *and to expect a reward of thy good deeds, not in earth but in heaven*; which he immediately professeth with a solemn Oath, *to perform to the uttermost of his power and knowledge*; but likewise professedly maintained by *Justus Eccardus de Lege Regia, Marius Salamonius de Principatu, Hugo Grotius de Iure Belli, & Pacis l.1.c.4 sect.10. Lib 2 c.13.14. Hotomani Franco-Gallia, c.6.10.14. Ruibingius, l. 2. Class. 11. c.8.n.26. Ioannis Mariana, Hist. l.10 c.16. l.27. c.11 l.35. c 16. Albericus Gentilis, de Iure Belli, l.3.c.15. Cuiacius, c 33. de Iure Iurando, Decius, Cons. 564.689. Cephalus, Concil. 618. Alciatus, l.3. de v.s. l 15. C. de pact. Baldus Proam. Digest.* and by *Iunius Brutus Vindiciæ contra Tyrannos, qu. 3. p. 136. to 256.* who handles this question professedly, *Whether that the King be the proprietory Lord of the publike Royall Patrimony of his Kingdom, or the Vsufructuary of it?* determining cleerly that he is not. I shall transcribe the most of his Dicourse;

(*n*) Part. 1. c. 10. & part. 2 p. 1. to 17.

(*o*) Rom. Ord. Consecrat. Episc. M. Selden's Titles of Honour, 2. Part. 1. cap. 8. p. 157, 158.

, This Head we must handle a little more accurately. This is first , to be observed, that the Patrimony of the Exchequer is one thing, of the Prince another thing; I say, the things of the Emperour, King, Prince are one thing, the things , of *Antonine*, *Henry*, *Philip* another: The things of the King are those, which he as , king possesseth; the things of *Antonine*, those which he hath as *Antonine*, and those , verily he received from the people, the other from his Parents. This distinction is , frequent in the Civill Law, wherein the patrimonie of the Empire is said to be one , thing, of *Cæsar* another, the Exchequer of *Cæsar* one thing, the Treasury of the Re- , publike another, the Treasurer of *Cæsar* one person, of the Emperiall Exchequer ano- , ther, the Courts of sacred donations, others from those of private things; so that he , who as Emperour is preferred before a private man in a pledge, may sometimes be , placed after him as *Antonine*. Likewise in the *German* Empire, things of Mari- , milian of *Austria* are one kinde of things, of *Maximilian* the Emperour another; , the Treasurers of the Empire others, and of himself other from them; Likewise by , another Law, the hereditary possession of *Princes* are different, from those which are , annexed to the dignities of the Electorship. Yea, even among the Turks the *Patri-* , moniall Grounds or Gardens of *Selymus* are one thing, the fiscall Ground another; , and those verily are spent on the *Princes* Table, these onely in sustentation of the , Empire. Yet there are Kingdoms, as the French, English, and the like, wherein Kings , have no private *Patrimonie*, but onely the Republike received from the people, in , which therefore this distinction is not used. Now as for the private goods of *Prin-* , ces, if there be any, there is no doubt but they are the proprietors of them, no other- , wise then private Citizens; and by the civill Law they may sell and divide them

(*p*) *Libene a Zenone c. dequæst. præst. Lucis, de quæst. Mag. l 12 c. 1 fiscus D. de Iure fisci.*

L. Cum servis 39. to ult. D. de Leg. 1. l Universi 9 x. l. seq. & de fundo patrimon.

, at their pleasure; But verily of the Exchequer, Kingdom, Royall Patrimony, which , is usually called Demesnes, they can with no reason be called the proprietory Lords. , For what? whether because one hath made thee a Shepheard for his Flocks sake, , hath he delivered it thee to fley, divide, doe with it, and strike it at thy pleasure? , whether because the people have constituted thee a Captain or Judge of some Citie , or County, have they given thee power of alienating, selling destroying that Citie or , County? And surely there is made an alienation of the people togeher with the Re- , gion or Countie, have they therefore given thee authority of severing, prostituting, , enslaving them to whom thou wilt? Furthermore, is the Royall dignitie a possession, , or rather a function? If a function, what community hath it with a propriety? If , a possession, whether not at least such an one, that the same people by whom it is de- , livered, may perpetually retain the propriety to it self? Finally, if the patrimonie of , the Eschequer, or demaines of the Republike, be truely called a Dower, and truely , such a Dower, by whose alienation or delapidation both the Republike it self and , Kingdom, and king himself finally perisheth; by what law at last, shall it be law- , full to alienate this Dower? Therefore let *Wenceslaus* the Emperour be infatuated, , let *Charles* the sixth king of *France* be distracted, and give or sell the kingdom or a , part thereof to the English; let *Malchom* king of *Scotland* prodigally spend the , Crown land, and royall Treasure, what will follow? Those who have chosen a , king against the invasions of Forraigners, by the folly or madnesse of the king shall , be made the servants of Forraigners; those who by this means would severally desire , to secure their Estates, shall all of them together be exposed to a prey; those things , which every one shall take from himself or from his pupils, as in *Scotland*, that he , might endow the Commonwealth, some Bawd shall riotously consume. But if, as we , have already often said, kings be created for the peoples use, what use at all shall , there be, if not onely the use, but even the abuse be granted? To whose good are so , many evils? to whose benefit so many losses, so many perils? If, I say, whiles I de- , sire to look after my liberty or safetie, I make my selfe a slave, I expose my selfe to , the lust of one man, I put my self into Fetters and Stocks? Therefore we see this Law, , as it is infused by nature, so likewise it is approved by use almost among all Nations, , that it is not lawfull for the king to diminish the Commonwealth at his pleasure; , and he who doth contrary, is censured to play not the king, but Tyrant. Certain- , ly where kings were created, there was a necessity to give them some Revenues, by , which they might both support their Royall State, but most principally sustain the , Royall burthens, for so both honesty and profit seemed to require. It pertained to the , Royall Office to see Judges placed every where, who should not take gifts, and who , should not prostitute the Law to sale; Moreover, to provide a force ready at hand , which should assist the Law when ever there should be need; to preserve the wayes , safe, Commerce safe, &c. but if warre were feared; to fortifie Cities with a Garrison, , to inviron them with a Trench against enemies, to maintain an Army, to furnish , Armories. Now this is a know proverb, that peace cannot consist without warre, , nor war without souldiers, nor souldiers without wages, nor wages without tribute: , Therefore to sustaine the burthens of Peace, the demesne was instituted, (which , among the Lawyers is called Canon) to defray the charges of warre, tribute; yet so, , as if some more heavy charge should accrue, an extraordinary ayde given by Parlia- , ment should supply; the end of all which verily, is the good of the Commonwealth,

, so,

, so as he that converts it to his private use, is plainly unworthy the name of a king. *Rom. 13.*
, For a *Prince*, saith *Paul*, is the Minister of God for the peoples good, and Tributes
, and Customes are paid to him, that he may continually attend thereto; And truely
, heretofore almost all Customs of the *Romanes* seem to have had this Originall, that
, the precious Merchandize used to be brought out of *India*, *Arabia*, *Aethiopia* might *Plin. l. 19. c. 4.*
, be secured against piraticall invasions, for which cause a Navie was furnished; of
, which kinde was the tribute of the Red-sea, *Pedatica*, *Navigia*, *Portoria*, and the *Archid. in Can.*
, rest; that the publike wayes, (which were therefore called *Pretorian*, *Consular*, *si quis Komi etas*
, *Royall*) should be rendred safe from theeves, plain and easie; which charge even now *& peter 24 qu.*
, lieth upon the kings Attorny; that the publike Bridges should be repaired, as ap- *3. Baldus in c.*
, peares out of the Constitution of Lewes the godly; twelve over Seyne; that Ships *1. sect. Comme... de pacciure*
, should be ready at hand to transport men over Rivers, &c. There were no Tributes of *infir. l. 2. D ne*
, Saltpits, yea, most of them were in the Dominion of private men; because what *quid in loco pub.*
, things nature did voluntarily give, they thought ought no more to be sold, then *Viarum l. magis*
, Light, Ayre, water. And whereas a certain *King* named *Lycurgus*, had begun to *puto D. de rebus*
, impose a Tax on Salt pits, as if nature would not suffer her liberality to be restrain- *eorum.*
, ed, they are said to have been presently dried up; although at this day,

If we beleeve Palphur or Armilot,
Whatever good, or faire thing can be got *Juvenal.*
Out of the Whole Sea, in each Realme it flowes,
Some custome to the Kings Exchequer owes.

, He who first instituted this custome at *Rome*, was *Livius Censor*, whence he obtai-
, ned the surname of *Salinator*, which he did for the most present necessity of the Com-
, monwealth. For that very cause truly, King *Philip* obtained it onely for five
, yeares, whose continuation what commotions it hath produced, every man know-
, eth: Finally, that tributes were instituted to pay Souldiers wages in warres, ap-
, peares even from this, that to make a Province stipendary or tributary, is the selfe-
, same thing indeed. Thus *Solomon* imposed Tributes to fortifie Cities, and to furnish *2 King. 9. & 12. Postellus l. 3. de*
, a publike Armory, which because they were finished, the people under *Roboboam* *Rep. Tur.*
, desired to be eased thereof: Yea, the Turkes themselves call the Tribute of Prin-
, ces, *The sacred blood of the People*, which profusely to spend, or to convert to any
, other use, but to defend the people, is a cursed act. Therefore what things soever a
, King acquires in warres in every Nation, because he gaines it by the common trea-
, sure, he acquires it to the people, not to himselfe, as a factor doth to his Master:
, Moreover if perchance he gaine any thing by marriage (which I say, is pure and
, simply his wives) he is thought to acquire it to the Kingdome, because he was pre-
, sumed to marry that wife, not as he is *Philip* or *Charles*, but as he is King. On the
, contrary, as Queenes have part of those things which their husbands not yet co-
, opted into the Kingdome have gained during the marriage; so plainly they have
no part of those things they get after they have obtained the Kingdome, because they
, are reputed gained to the publike Treasures, not to the private meanes of the King,
, which was judged in the Realme of *France*, between *Philip Valoyes* and *Ioan* of
, *Burgundy* his wife. Now, lest the monies should be extorted to some other use, the
, Emperour sweares, that he will impose no customes, nor enjoyne no taxes, but by

, the Authority of a publike Assembly. The Kings of *Poland*, *Hungary*, *Denmarke*, , *England* doe the like out of the Lawes of *Edward* the first. The French *Kings* here- , tofore demanded Tributes in the Assemblies of the three Estates; Hence also is that , Law of *Philip Valoyes*; *That impositions should not be imposed but upon great and* , *urgent necessity, and that by the consent of the Three Estates:* Moreover in times , past those taxes were laid up in Castles throughout every Dioceſſe, and delivered to , selected men (they even now call them Elected) to be kept, by whose hand the Sol- , diers enrolled in every Town, should receive their wages, which was also usually , done in other Countries, as in the Belgick; At this day at least, whatsoever things , are commanded, are not confirmed, unlesse the Parliament consent. Now there are , some *Provinces*, which are not bound by covenant, but by the consent of the Estates, , as *Languedoc*, *Britain*, *Province*, *Dolphenie*, and some others; and in the *Nether-* , *lands* clearly all. Finally, left the Eschequer, swelling like the spleen, whereby all , the other Members do pine away, should draw all things to it self, every where , a due proportion is allotted to the Eschequer. Since therefore at last it appeares, , that the tributes, customes, demesall, that which they call demesnes, (under which , names Portages, Imposts, Exposts, Royalties, wrecks, forfeitures, and such like , are comprehended) which are ordinarily or extraordinarily given to Kings, were , conferred on them for the benefit of the people, and supportation of the king- , dome, and so verily; that if these nerves should be cut in sunder the people would fall , to decay, these foundation being under-mined, the Kingdome must needs fall to the , ground; it truely followes, that he who to the prejudice of the people burthens the , people, who reaps a gain out of the publike losse, and so cuts their throat with their , own sword, is not a King, but a Tyrant: contrarily, that a true King, as he is a , survey or of the publike affaires, so likewise an Administrator of the publike riches, , but not a proprietary Lord, who can no more alienate or dissipate the Royall De- , mesnes, then the kingdome it selfe; but if he shall demene himselfe otherwise; ve- , rily as it is behoovefull to the Republike, that every one should use his own proper , goods well, much more is it beneficiall for the Commonweal, that every one should , use the publike estate well. And therefore if a Lord who prodigally spends his E- , state, is by publike authority deduced to the Wardship of his kinsmen, and Family , and compelled to abstaine from his possessions; then truly much more justly, the , Gardian of the Republike, who converts the publike Administration of all wealth , into the publike destruction, or utterly subverts it, may justly be spoiled, by those , whom it concernes, and to whom it belongeth out of Office, unlesse he desists up- , on admonition. Now that a *King* in all lawfull Empires is not a proprietary Lord , of the Royall patrimony, is easie to be manifested. That we may not have recourse , to those most ancient ages, whose Image we have in the person of *Ephron* king of the
Gen.23. , Hittites, who durst not verily sell his field to *Abraham*, without the peoples con- , sent; that very law is at this day used in all Empires. The Emperour of Germany
Sleiden, l.1. & Bulla aurea. , before he is Crowned, sacredly swears, *That he will alienate, distract, or morgage* , *nothing of those things which appertain to the Empire*, and the patrimony of the Em- , pire; but if he recovers or acquires any thing by the publike Forces, that it shall , come to the Empire, not to himself. Therefore when *Charles* the fourth, that *Wen-* , *ceslaus* his sonne might be designed Emperor, had promised an 100000 Crowns to , every one of the Electors, and because he had no ready monies, had obliged to them

, by

, by way of pawne to this end, the Imperiall Customs, Tributes, Townes, Proprieties , and Rights; there arose a most sharp dispute about it, and the most judged the mor- , gage to be void; which verily had not availed, unlesse that morgage had been gain- , full to those very men, who ought to defend the Empire, and principally to oppose , that morgage: Yea, therefore *Wenceslaus* himself was compelled as incapable, to de- , prive himself of the Empire, because he had suffered the Royall Rights, especially the , Dukedome of *Millain* to be taken from him. In the Polish kingdom there is an anci- , ent Law, *of not alienating the Lands of the Kingdom of* Poland, renewed *An.* M.CCCLXV , by king *Lewes*: There is the same Law in the Realm of *Hungary*, where we reade, , that *Andrew* king of *Poland*, about the year M.CCXXI. was accused before Pope *Ho-* , *norius* the third, that neglecting his Oath, he had alienated the Crown Lands. The , like in *England* in the Law of *K. Edward*, *An.* M.CCXCVIII. Likewise in *Spain* by the , Constitution made under *Alphonso*, renewed again CIↃIↃLX in the Assembly at , *Toledo*; which Lawes verily were enacted, when as custome for a long time before , had obtained the force of a Law. But verily in the kingdome of *France*, wherein, as in , the pattern of the rest, I shall longer insist, this Law was ever sacrosanct: It is the , most ancientest Law of the Realme, I say, the Law born with the Kingdom it self, , *Of not alienating the Crown (or demesne) Lands*, renewed in the year CIↃ,IↃ,66. , although it be ill observed. Two cases onely are excepted, Panage or Apennage (ali- , ments) to be exhibited to his children or brethren, yet so as the clientelary right be , alwayes retained; again, if warlike necessitie require it, yet with a pact of reddition, , Yet in the interim both of them were heretofore reputed void, unlesse the Assembly , of the three Estates had commanded it; but at this day, since a standing Parliament , was erected, it is likewise void, unlesse the Parliament of *Paris*, which is the Senate , of *Peers*, and the Chamber of publike accounts shall approve it, and the Presidents of , the Eschequer also by the Edict of *Charles* the 6 and 9. And this is so farre forth , true, that if the ancient Kings of *France* would endow any Church, although that , cause then seemed most favourable, they were bound to obtain the consent of the No- , bles; as king *Childebert* may be for an example, who without the consent of the , *French* and *Normans*, durst not endow the Monastery of S. *Vincents* in *Paris*, as nei- , ther *Clodovens* the second, and the rest. Moreover, they cannot release the Royal- , ties, or the right of nominating Prelates to any Church; but if any have done it, as , *Lewes* the eleventh in favour of the Church of *Sennes*, and *Philip* the fourth of *Angi-* , *ers*, *Philip Augustus* of *Naverne*, the *Parliament* hath pronounced it void. The king , of *France*, when he is to be Crowned at Rheimes, sweares to this law, which if he , shall violate, it avails as much as if he contracted concerning the Turkish or Persian , Empire. Hence the Constitutions, or as they call it, the Statutes of *Philip* the sixt, , *John* the 2d, *Charles* the fifr, sixt, eight, of resuming those things which were alienated , by their Ancestors, (of which resumptions there are many instances cited by *Hugo* , *Grotius de Jure Belli & Pacis*, *l.2. c.14.n.12.13. & Adnotata Ibid.*) Hence in the As- , sembly of the three Estates at *Towres* (*An.*1323.1360.1374.1401.1483.) in which , *Charles* the eight was present, many Towns of the alienation of *Lewes* the eleventh , his Father, which he had by his own Authoritie given to *Tancred Castellan*, who de- , merited well of him, were taken from his Heirs; which even in the last assembly of , the three Estates held at *Orange*, was again decreed. Thus concerning publike Lands. , But that it may the more evidently appeare, that the Kingdome is preferred before , the.

L.1. & passim, c de Com. Rev. alienat.

Nauclerus in Chron. Gen. 46. C. intell. Ne de Iureiurando in Decret.

Polydor Virgil. In Cod Hispan. par. 5 1. Consent. 9.

Papon Arrest. l.5. Tit. 2. art. 4.

Paragr. 11. de 16. Leg. Regia Latæ. 1566.

Aimoi &c. Aimoi. l.4. c.48.

L. Petr. 69. parag. præsumi. D. de Oy. 2.

An. 1483. 1512. 1551. Arrests Cuiac. 1. 60.

, the king, that he cannot by his private Authoritie diminish the Majestie which he
Paulus Æmil. l.3. , hath received from the people, nor exempt any one from his Empire, nor grant the
, right of the Soveraign Dominion in any part of the Realm; *Charles* the great once
, endeavoured to subject the Realm of *France* to the *German* Empire; but the *French*
An 1195, 1200, 1269, 1297, 1303. 1315, 1330. , vehemently withstood it, a certain *Vascon* Prince making the Oration: The mat-
, ter had proceeded to Arms, if *Charles* had proceeded further. Likewise, when some
, part of the Realm of *France* was delivered to the English, the supreme right was al-
, most perpetually excepted; but if Force extorted it at any time, as in the Brittish
An. 1360. *An.* 1465. & 1525. , League, wherein king *Iohn* released his Soveraign Right in *Gascoigne* and *Poytiers*,
, the king neither kept his Contract, neither could or ought he more to keep it, then
, a Captain, Tutor or Guardian, as then he was; who that he might redeem himselfe,
, would oblige the goods of his Pupils. By the same Law the Parliament of *Paris*
, rescinded the agreement of the *Flusheners*, wherein *Charles* of *Burgundy* extorted
An 1420. *Monstrelet c.* 225. , *Ambian*, and the neighbour Cities from the king; and in our time the agreement of
, of *Madrit*, between *Francis* the first a Captive, and *Charles* the fift the Emperour,
, concerning the Dukedome of *Burgundy* was held void; and the Donation of *Charles*
, the sixt of the kingdom of *France* by reason of death, conferred on *Henry* king of
, *England*, may be one apt argument of his extreme madnesse, if others be wanting. But
, that I may omit other things which might be said to this purpose, by what right at
L. Liber homo 103. D. de verbo. obligat. l. si Emp. 34. §1 D. de contra. Emp. l pe. C. de oper. libert. , last can a king give or sell his kingdom or any part thereof, seeing they consist in
, the people, not in the walls? now there is no sale of free men, when as Land-
, Lords cannot so much as constrain their free Tenants, that they should settle their
, Houshold in any other place then where they please; especially seeing they are not
, servants, but Brethren; neither onely are all kings Brethren, but even all within
, the Royall Dominion ought to be so called.

An lex sit Regni usus fructuarius? , But whether if the king be not the proprietorie of the Realme, may he not at least
, be called the usufructuary, or receiver of the profits of the Crown Lands? Truely, not
, so much as an usufructuary. A usufructuary can *P*awn his lands, but we have proved,
, that kings cānot morgage the *P*atrimony of the Crown. A fructuary can dispose or give
, the profits at his pleasure; contrarily, the great gifts of the king are judged void, His
, unnecessary expences are rescinded, his superfluous cut off; what ever he shall con-
, vert into any other but the *P*ublike use, he is thought to have violently usurped. Nei-
, ther verily is he lesse obliged by the *Cincian* Law, then any private Citizen among
, the *Romanes*, especially in *France* where no gifts are of force without the consent of
, the Auditors of the Accounts. Hence the ordinary Annotations of the Chamber
, under prodigall kings; This Donation is too great, and therefore let it be revoked.
, Now this Chamber solemnly swears, that whatsoever rescript they shall at any time
, receive from the king, that they will admit nothing which may be hurtfull to the
, kingdom and Commonweale. Finally, the Law cares not how a Fructuary useth and
, enjoyeth his profits; contrarily, the Law prescribes the king in what manner, and
, unto what use he ought to put them. Therefore the ancient kings of *France* were
, bound to divide the Rents into four parts; one part was spent in sustaining the Mini-
, sters of the Church, and the poor, another upon the kings Table, the third on the
Monstrelus in Carolo 6. , Wages of his houshold servants, the last in the repaire of royall Castles, Bridges,
, Houses; the residue, if there were any, was laid up in the Treasury. Verily what stirs
, there were about the year 1412 in the Assembly of the three Estates at *Paris*, be-

cause

, cause *Charles* the sixt had converted all things into his and his Officers lusts, and , that the Domestick accounts, which before had not exceeded 94 thousand French , Crowns in such a miserable estate of the republike, had increased to the sum of five , hundred and forty thousand Crowns, is sufficiently evident out of Histories: Now as , the rents of the Crown were thus lessened, so also the oblations and subsidies were , spent upon the Warre, as the taxes and tallages were onely destinated to the sti- , pends of Souldiers. In other Realms the King verily hath not any more Authority, , yea, in most he hath lesse, as in the Germane and Polish Empire: But we would , therefore prove this to be so in the Realm of *France*, lest by how much any man dares , to doe more injury, by so much also he might be thought to have more right. In , summe, what we have said before, the name of a King sounds not an inheritance, not , a propriety, not a perception of profits, but a function, a procuration. As a Bishop , is instituted for the cure and salvation of the soul, so the King of the body, in those , things which pertain to the publike goods; as he is the dispenser of sacred goods, so , the King of prophane, and what power he hath in his Episcopall, the same, and no , greater hath the King in his dominicall Lands; the alienation of the Episcopall , Lands without the consent of the Chapter, is of no validitie, so neither of the Crown , Land without a publike Parliament or Senate of the Estates; Of sacred revenews , one part is designed to ædifices, another to the poor, a third to Companions, a fourth , to the Bishop himself; the same verily almost we see the King ought to do in dispen- , sing the revenewes of the Kingdom. It hinders not, that the contrary every where is , at this day usurped: For the duty of Bishops is not any way changed, because many , Bishops sell those things from the poor, which they spend upon Bawds, or wast all , their Mannors and Woods; nor yet that some Emperours have attributed all kinde , of power to themselves, for neither can any one be judge in his own Cause. But if any , *Cararalla* hath said, *That so long as his sword remains, he would want no money*; *Adrianus* Cæsar will also be present, who shall say, *That he would manage the Principality, so as all should know, that it was the peoples goods, or inheritance, not his own*; which , one thing almost distinguisheth a King from a Tyrant: Not, that *Attalus* King of , Pergameni, ordained the people of *Rome* Heirs of his Realme; that *Alexander* be- , queathed the kingdom of Ægypt, *Ptolomie* of the *Cyrenians*, to the people of Rome, or , *Prasutagus* of the *Iceni* to Cæsar, verily this great power cannot debilitate the , force of the Law, yea, by how much the greater it is, by so much the lesse it hurts , our law; for what things the *Romanes* seized upon by pretext of law, they would not- , withstanding have seized on by force, if that pretext had been wanting: Yea, we see , almost in our times, the *Venetians*, by pretext of a certain imaginary adoption, , which without force had been plainly ridiculous, to have taken the Kingdom of Cy- , prus. Nor yet doth the Donation of *Constantine* to pope *Sylvester* hinder, for this , Chaffe seemed absolete long since to *Gratian*, and is damned to the fire. Not the , donation of *Lewes* the godly to *Paschall*, to wit, of *Rome*, with part of *Italy*, because , *Pius* gave that which he possessed not, and no man resisted; But *Charles*, his Father, , willing to subject the Realm of *France* to the *German* Empire, the *French* resisted him , by law; and if he had gone further, they prepared to resist by force Not, that *Solomon* , as we read, delivered twenty cities to *Hiram* King of Tyre, for he did not give them, , but pawned them as a Creditor till he paid him, and within a short time recovered , them, which appears out of the Text; Moreover also they were barren grounds, cil-

Ex Concil. Valent. nc. de his quæ spiritua Prælatis absque consensu capit.

Florus l. 2 Livy l. 70. Tacitus l. 14.

Volaterran. Zos. Greg 3.

1 King c. 9. 2 Chron. 8.

, led by Reliques of the Heathens, which he receiving again from *Hiram*, gave them , at last to the Israelites to be tilled and inherited. Neither can this more hinder, that in , certain Kingdoms this condition perchance doth not so expresly intervene betweene , the King and his people; for albeit it were not at all, yet it appears by the law of Nati- , ons, that Kings are not subverters, but Moderators of the Republike, that they cannot , change the right of the Commonwealth by their pactions; that they are Lords , onely when they take care of their Pupils, that they are to be accounted no other , then Guardians; and that he is not to be esteemed a Lord, who spoils the City , with liberty, and selleth it like a slave. Not finally, that certain Kingdoms are gain- , ed by Kings themselves, for they acquired not Kingdoms by their owne, but by , publike hands, forces, treasures; now nothing is more consonant to reason, then that , those things which are gotten by the publike riches, and common dangers of the Ci- , tizens, should not be alienated without common consent, which holds place even , amongst Theeves themselves; he destroyeth humane society, who doth the contrary: , Therefore though the French have by force seized on the German Empire, and they , also on the Realm of *France*, yet the same law holds in both. In sum, at last we ought , to determine, that Kings are not Proprietors, nor Fructuaries, but onely Admini- , stratours; and since it is so, that verily they can much lesse attribute to themselves the , propriety and profits of every mans private Estate, or of the publike wealth which , belongeth to every Town. Thus and much more this accute learned Lawyer, to the conviction and refutation of all opposite *Ignoramusses* in this case of grand concern- ment, which will put a period to our unhappy controversies concerning the *Militia*, (* formerly discussed) without further debate.

L. 2. paragr. ius rei. D. de admin. rer. ad cui. part. T. Luter 27. D. de admin. tutor. l. si Fundum. parag. si tutor D. depositi & express. Extraneg. de re Iudicat c. int. lectio. l. 2 & passim. C. de interdict. Com. rer. alien.

*Part. 2. p. 1. to 41.

Observ. 8. Eighthly, *That Emperours and Kings are most solemnly obliged by a Covenant and Oath, usually made to, and before all the people at their Coronations, to preserve their peoples lawes, liberties, lives, estates; by breach whereof in a wilfull excessive manner, they become perjured Tyrants, and the people and Magistrates are in some sort thereby absolved from their Allegiance, and all obedience to them.*

(q) *Part. 1. p. 51. to 78.* This is evidently and plentifully confirmed by the (q) forecited Coronation Oathes, and Covenants of our own English Kings to their subjects, by *De Jure Magistratus in Subditos, quæst.* 10. *p.* 321. 322. and *quæst.* 6. *p.* 260. to 300. *Andrew Favine* his Theatre of Honour, *lib.* 2. *c.* 11. 24. *Francisci Hotomani Franco-gallia, cap.* 6. 10. *&c. Hugo Grotius de Jure Belli & Pacis, l.* 2. *c.* 13. 14. *Pontificale Romanum, Romæ* 1611. *fol.* 162. 163. *Descriptio Coronationis Maximiliani Imperatoris, Anno* 1486. *inter rerum German Scriptores, Tom.* 3. *p.* 32. *Olaus Magnus de Gent. Septentrionalibus Hist. l.* 14. *c.* 6. *Laur. Bochellus decreta Ecclesiæ Gallicanæ, l.* 5. *Tit.* 2. *c.* 1. *p.* 703. *M. John Seldens Titles of Honour, part.* 1. *ch.* 8. *sect.* 5. *p.* 198. 214. 225. 226. (where the Coronation, Oathes of the Emperour, French King, of all the Northern Kings, and of most Elective and Successive Kings and Queens to their Subjects, are at large recorded:) *Althusius Polit. c.* 4. *Justus Eccardus de Lege* Regia; *Thomas Aquinas de* Reg. *Principis, c.* 6. *&* 2. *qu.* 2^a. 12. *art.* 2. *Iohn Ponet Bishop of Winchester in his Politicall Government. Arnisæus de Authoritate Principum, p.* 50. *to* 123. *Sparsim. Vasquius contro. Illustr. passim. Ioannis Mariana de* Rege *&* Regis *Instit. l.* 1. *c.* 6. 7. 9. *Georg. Buchanon de Iure* Regni *apud Scotos. Simancha Pacensis de Catholica. Instit. Tit.* 23. *n.* 11 *p.* 98. *Franciscus* Tolletus *in summa l.* 5 *c.* 6. *Huldericus Zuinglius; Explan. Artic.* 40. 41. 42. And, to omit all others, *Iunius Brutus* in his *Vindiciæ contra Tyrannos, quæst.* 3. *p.* 156.

to

to 167. with whose words I shall fortifie and irradiate this position : , We have , said, that in constituting a King a double Covenant is entred into ; the first between , God, the King and people, of which before ; the second, between the king and the , people, of which we are now to treat. *Saul* being ordained king, the royall law was , delivered to him, according to which he should rule. *David* made a Covenant be- *Deut* 17. 1 Sa. , fore the Lord in *Hebron*; that is, calling God to Witnesse, with all the Elders of 10.25. 2 Sam. , Israel, who represented all the people, and then at last he was annointed king. *Ioas* 5.3. 1 *Chron.* , also made a Covenant with all the people of the land in the house of the Lord, *Iehoia-* 11.3. 2 *King.* , *da* the high Priest going before them in words : Yea, the testimony is said to be 11.17 & 12. , imposed on him together with the Crown ; which most interpret the Law of God, 2 *Chron* 23 3. , which every where is called by that name. Likewise *Iosiah* promised, that he would 2 *King.* 23. , observe the Precepts, Testimonies and Statutes comprized in the book of the Cove- , nant; by which names we understand the Lawes which appertained as well to pie- , ty as to justice. In all which places of Scripture, a *Covenant* is said to bee , made *with all the people, the whole multitude, all the Elders, all the men of Iudah*; that , we may understand, which is likewise severally expressed, not onely the Princes of , the Tribes, but likewise all the Chiliarkes, Centurions, and inferior Magistrates were , present, in the Name of the Cities, which every one a part by themselves made a Co- , venant with the king. In that Covenant they consulted of creating the king, for the , people did make the king, not the king the people. Therefore there is no doubt, but , the people made the Covenant, and the King promised to perform it. Now the part , of him that makes the Covenant is reputed the better Law : The people demanded , of the King, whether he would not rule justly and according to the Lawes? Hee , promised that he would doe so : wherupon the people answered, That hee reigning , justly, they would faithfully obey him. Therefore the King promised absolutely; , the people, but upon condition; which if it were not fulfilled, the people by the , Law it selfe should bee reputed absolved from all obligation. In the first covenant , or Pact, Pietie comes into the obligation, in the second, Iustice : In that, the king pro- , miseth, that he will seriously obey God ; in this, that he will justly rule the people : , in that, that he will take care of the glory of God; in this, of the benefit of the people; , in that there is this condition, *If thou shalt observe my Law*; in this, If thou shalt render , Iustice to every one : Of that, if it be not fulfilled, God properly is the avenger ; of , this, lawfully all the people, or the Peers of the Realm, who have taken upon them , to defend all the people. Now in all just Empires, this hath been perpetually observed. , The *Persians* having duely finished their sacrifices, made this agreement with *Cyrus*, *Xenoph. lib. 8.* , *Thou first, O Cyrus, if any make warre with the Persians or violate the Lawes, doest* , *thou promise to ayde thy Countrey with all thy might?* And as soon as he had promi- , sed, *We Persians*, say they, *will be aiding to thee, if any will not obey thee, defending* , *thy Countrey* : *Xenophon* calls this agreement συμμαχίαν, that is, *a Confederati-* *Xenophon de* , *on*, as *Socrates* an Oration of the duty of Subjects towards their Prince μαχῶν λόγον : *Repub. Lace-* , Between the kings of *Sparta* and the *Ephori*, a Covenant was renewed every month; *dem.* , and as the kings did swear, *That they would reign according to the Laws of the Coun-* *Dionys. Hal.* , *trey*; so the *Ephori*, *If they did so, that they would establish the Kingdom in their hand.* *car lib. 1.* , Likewise in the kingdom of the Romanes, *Romulus* made this contract with the Se- , nate and people, That the People should make Lawes, that the king himself would , keepe the Lawes made ; That the People should decree Warre, himself wage it.

, And although many Emperours obtained the Empire of the Romans rather by force
, and ambition, then by any right, and by the *Royall Law*, as they call it, arrogated
, all kinds of power to themselves; yet the* fragments of that Law, which are extant
, as well in Books as in Roman inscriptions, sufficiently teach; that a power was
, granted them, of caring for and administring, not of subverting the Common-weal
, and oppressing it by tyranny. Moreover, even good Emperours professed, that they
, were bound by the Lawes, and acknowledged their Empire received from the Se-
, nate, and referred all the weighiest affaires to the Senate, and they judged it unlaw-
, full to determine any thing of great publike concernment without their aduice.
, But if wee behold the present Empires, there is not one of them which may be
, thought worthy of that name, wherein there is not some such Covenant interve-
, ning between the *Prince* and Subiects. In the *German* Empire, not long since,
, the King of Romanes being to be crowned Emperour, was wont **To make Fealty**
, **and Homage to the Empire, no other wise then a Vassall (or tenant) to his Lord,**
, when he received investiture of his Lands. And although the conceived words, to
, which he sware, be a little changed by Popes, yet the same thing remains perpetually.
, Therefore we know that *Charles* the 5. of *Austria* was created Emperour upon cer-
, tain Lawes and conditions, as likewise others, who have succeeded him; of which
, the summe was; *That he would keep the Lawes enacted; That he would make no*
, *new Lawes, without the Electors consents; that he would determine publike affaires*
, *in a publike Counsell; that he would alienate or pervert none of these things which per-*
, *tained to the Empire*; with other things which are severally recited by Histori-
, graphers: And when as the Emperour is crowned at *Achen*, the Archbishop of
, *Colen* first demands of him; *Whether he will not defend the Church, administer ju-*
, *stice, preserve the Empire, protect Widowes, Orphans, and all worthy of pitty?* which
, when he hath solemnly sworn to perform before the Altar, the Princes and those
, who represent the Empire, are demanded, *whether they will promise to fealty him?* Nei-
, ther yet is he first annointed, or receives a sword, (of purpose to defend the Repub-
, like) or other Ensignes of the Empire, before that he shall have taken that Oath.
, From whence verily it is manifest, that the Emperour is purely obliged, the Princes
, of the Empire upon condition onely. No man will doubt but that the same is obser-
, ved in the kingdom of *Poland*, who shall understand the ceremonies very lately ob-
, served in the Election and Coronation of *Henry* of *Angiers*: especially, the condi-
, tion propounded to him of conserving both Religions, as well the Evangelicall as
, Roman, which the Nobles thrice demanding of him in set forme of words, he thrice
, promised to perform. In the *Hungarian, Bohemian*, and other kingdomes, which
, would be over-long to recite, the very same is done. Neither onely, where the right
, of Election hath continued yet entire hitherto, but likewise where meer succession
, is commonly thought to take place, the very same stipulation is wont to intervene.
, When the (t) King of *France* is crowned, the Bishops of *Laudune* and *Belvace* ec-
, clesiasticall Peers, first demand of all the people that are present, **Whether they**
, **desire and command him to be King?** Whence even in the very forme it self of in-
, auguration, he is said **To be elected by the People.** When the people **Seem to**
, **have consented**, he sweares: **That** *he will universally defend all the Lawes, Privi-*
, *ledges, and Rights of France, that he will not alienate his demesnes*, and the like (I
, shall here insert the Oath out of *Bochellus*, Mr. *Selden*, and others intirely, thus:

Archi-

See Eccardus de Lege Regia & Marius Salamonius de Principatu l. 6. where this Law is recorded.

Speculum Saxon, l. 1. art. 54. See Descript. Coronations Maximiliani Imper An. 1486. in Rerum Germ. script. Tom. 3 p. 321. Sleidan, l. 1, f. 2.

(s) See Pontifical. Romanum Rome 1611, f. 161. 162. Mr. Seldens Titles of Hon. par. 1. c. 8. p. 196. to 206.

(t) See Bochellus Decreta Eccles. Gallicane l. 5. tit. 2. c. 1. & Mr. Seldens Titles of Hon. par. 1. ch 8. p. 241. to 256.

Archiepiscopi Ammonitio ad Regem dicendo ita (in the name of all the Clergy.) *A vobis perdonari petimus, ut unicuique de Nobis & Ecclesiis nobis Commissis, Canonicum privilegium, & debitam legem atque justitiam conservatis, & defensionem exhibeatis, sicut Rex in Regno suo debet unicuique Episcopo, & Ecclesiæ sibi Commissa.*

Responsio Regis ad Episcopos.

Promitto vobis & perdono, quia unicuique de vobis & Ecclesiis vobis commissis Canonicum privilegium, & debitam legem atque justitiam conservabo, & defensionem quantum potuero exhibebo, Domino adjuvante, sicut Rex in suo Regno unicuique Episcopo & ecclesiæ sibi commissæ per rectum exhibere debet.

Item, hæc dicit Rex, & promittit & firmat juramento.

Hæc populo Christiano & mihi subdito, in Christi nomine, promitto. In primis, *Ut Ecclesia Dei, omnis Populus Christianus veram pacem nostro arbitrio in omni tempore servet; & superioritatem, jura, & Nobilitates Coronæ Franciæ inviolabiliter custodiam, ET ILLA NEC TRANSPORTABO NEC ALIENABO.* Item, *ut omnes repacitates & omnes iniquitates omnibus gradibus interdicam.* Item, *ut in omnibus judiciis æquitatem & misericordiam præcipiam, ut mihi & vobis indulgeat per suam misericordiam clemens & misericors Dominus.* Item, *de terra mea ac jurisdictione mihi subdita universos Hæreticos Ecclesia denotatos, pro viribus bona fide exterminare studebo. Hæc omnia prædicta firmo juramento.*

, *Tum manum apponat Libro & librum osculetur*) These things, though they have , been altered, and are farre different from the ancient forme of the Oath which is ex- , tant in the Library of the Chapter of *Belvace*, to which *Philip* the first is found to , have sworn; yet notwithstanding they are plainly enough expressed: Neither is , the King girt with a sword, annointed, crowned by the Peeres (who even themselves , are adorned with Coronets) or receives the Scepter or rod of Iustice, or is proclaimed , King, before THE PEOPLE HAVE COMMANDED IT; Neither doe the Peeres themselves swear fealty and homage to him, untill he shall have given his , faith unto them, *That he will exactly keep the Lawes:* Now those are, *that hee shall , not waste the publike Patrimony: that he shall not impose nor enjoyn customes, Taxes, , Tributes at his owne pleasure, nor denounce warre, nor make peace*; Finally, *that , he shall determine nothing concerning the publike affaires, but in a publike Councell:* , Also, *that the Senate, the Parliaments, the Officers of the Kingdome shall constantly , enjoy their severall authorities*; and other things which have been alwayes observed in , the Realm of *France*. Yea verily, when he enters into any Province or City, *hee is , bound to confirm their priviledges, and he binds himselfe by Oath to preserve their , Lawes and Customes:* Which custome takes place by name among those of *Tholouse*, *Dolphenie*, *Britanny*, *Province* and *Rochel*; whose agreements with Kings are most , expresse; all which should be frustrate, unlesse they should be thought to hold the , place of a condition in the contract.* Yea *Charles* the 7. made a peace with *Philip* , Duke of *Burgundy* (whose Father *John* he had treacherously slain) with this expresse , clause contained in it, confirmed with the Kings own Seale; *That if he should break , this Agreement*, his Tenants, feudataries, and subjects present and to come, should , not be thenceforth bound either to obey or serve him, but rather the Duke of *Bur- , gundy* and his Successours, and that they should be freed and absolved from all the , fealty, Oathes, promises, obligations and duties whatsoever, under which they were , formerly

See *Hotoman. Franco-Gallia c.* 6, 7, 10.

* *De Iure Magist. in Subditos*, 290, 29, 292. See the French Hist. in Iuliste.

(*) *Bodin Comment. l.* 6. *c.* 2. *p.* 632, 633.

formerly obliged by *Charles*. The like we read between King *Lewis* and *Charles* the Bald. Yea, Pope *Iohn* the 22. in the Treaty between *Philip* the long of France, and the *Flemmings*, caused it to be set downe, *That if the King did infringe the Treaty*, it , might be lawfull for his Subjects to take Armes against him; And if was usuall among
In Annal. Burg. , the first Kings of *France* in their Treatises with other Princes, to sweare, that if they , brake the Treaties made by them, their Subjects shall be free from their obedience, as , in the Treaty of *Arras* and others. The Oath of the ancient kings of *Burgundy* is , extant in these words, *I will conserve Law, justice, and protection to all men.* In *Eng-* , *land, Scotland, Sweden, Donmarke*, there is almost the same custome as in *France*, and , verily no where more directly then in *Spain*. For in the Kingdome of *Arragon*, , many ceremonies being dispatched between him who represents the justice of *Arra-* , *gon*, or publike Majesty, who sits in an higher Throne, and having read the Lawes , and conditions, which he is to observe who is to be crowned King, **Who doth , fealty and homage to him**, the Nobles at last speake thus to the King in their owne , language; **We, who are as powerfull as you**, (for so the Spanish Idiom imports) , **and can doe more then you**, *have chosen you King upon these and these conditions*, , **Between you and us there reignes one greater then you**; (to wit, the Iustice of , *Arragon.*) Now lest he should think he had sworn those things onely perfunctorily, , or onely for to observe the old custome, these very words are wont to be repeated , every third yeere in the publike Assembly: But if he shall grow insolent trusting , to his Royall power, shall violate the publike Lawes, finally, shall neglect the Oath , he hath taken; then verily by the Law it selfe, he is deemed excommuuicated with , that grandest excommunication (or Anathema) wherewith the Church in former , times excommunicated *Iulian* the Apostate; whose force truly is such; that no , more prayers may be conceined for him, but against him; and they themselves are , clearly absolved from their Oath and Obligation by that Law, whereby a vassall , out of duty ought not to obey an excommunicated Lord, neither is bound to do it by
In Concil. Tol. 4. c. 74. & Tol. 6. l. 2. feud. tit. 28. par. 1. , his Oath; which is ratified among them by the Decree both of a Councell, and of a , Parliament or publike Assembly. Likewise in the kingdome of *Castile*, an Assembly , being summoned, the King that is to be crowned, is first publikely admonished of , his duty; after which, most expresse conditions are read, which pertaine to the pro- , fit of the Republike: Then the King sweares, *that he will diligently and faithfully , observe them*; then at last the great Master of the Knights binds himselfe to him by , Oath, whom the other Princes and Deputies of Cities afterwards follow every one
La iojeuse entrir. , in his order; which also is in like manner observed in *Portugall*, *Leon*, and the o- , ther kingdomes of *Spain*. Neither verily, were lesser principalities instituted by any , other Law. There are extant most expresse agreements of the *Brabanders*, of the o- , ther people of *Belgia*, *Austria*, *Carintha*, and other provinces, made with their prin- , ces, which verily have the place of conditions; But the *Brabanders* expresly, that , place might not be left to any ambiguity, have expressed this condition. For in in- , augurating their Duke, in ancient conventions, wherein there is almost nothing wan- , ting for the preservation of the Republike, they being all read over before the
Ludovic. Guic. , Duke, they protest openly and plainly to him, that unlesse he shall observe them all, **That it shall be free for them to chuse another Duke at their pleasure**: Which , conditions he embracing and willingly acknowledging, he then binds himselfe by , Oath to observe them, which was also observed in the inauguration of *Philip* the

last

, last King of *Spaine*. In sum, no man can deny, but that there is a mutuall binding
, contract between the King and subjects, to wit, That he raigning well, shall be well
, obeyed: Which verily is wont to be confirmed with an Oath by the King first, af-
, terwards by the people. Now verily I demand here, why any man should sweare,
, but that he may shew that he speaks from his heart and seriously? whether truly is
, there any thing more agreeable to nature, then that those things which have pleased
, us, should be observed? Moreover, why doth the King swear first, at the peoples stipu-
, lation or request, but that he may receive either a tacit or expresse condition? But why
, is a condition annexed to a contract, but onely to this end, that if it bee not fulfilled,
, the contract should become voide in Law it selfe? But if through default of per-
, forming the condition, the contract be voide in Law it selfe, who may call the people
, perjured, who shall deny obedience to a King, neglecting that condition which hee
, might and ought to fulfil, & violating that law to which he hath sworn? Yea, who on
, the contrary would not account the King fædifragous, perjurious & altogether unwor-
, thy of that benefit? For if the Law freeth the Vassal from the bond of his Tenure, against
, whom the Lord hath committed felony or perjury, although the Lord truly doth not
, properly give his faith to his Vassall, but his Vassall to him: if the Law of the twelve
, Tables commands a Patron who defrauded his Client to be detestable: if the civil laws
, permit a villain enfranchised an action against the outragious injury of his Lord; if in
, these cases they free a servant himself from his Masters power, whereas yet there is only
, a naturall not civill obligation therein, (I shall adde out of * *Dejure Magistratus in*
, *subditos. If in Matrimony, which is the neareſt and ſtricteſt obligation of all other between*
, *men, wherin God himselfe intervenes as the chief Author of the contract, and by which*
, *those who were two are made one flesh, if the one party forsakes the other, the Apostle*
, *pronounceth the party forsaked to be free from all obligation, because the party deserting*
, *violates the chief condition of marriage, &c.*) Shal not the people be much more absolved
, from their Allegiance which they have made to the King, if the King, who first so-
, lemnly sweares to them, as a Steward to his Lord, shall break his faith? Yea verily
, whether if not these Rights, not these Solemnities, not these Sacraments or Oathes
, should intervene, doth not nature it selfe sufficiently teach, that Kings are constituted
, by the people, upon this condition, that they should reign well? Iudges, that they
, shall pronounce Law? Captaines of warre, that they should lead an Army against
, enemies? But and if so be they rage, offer injury, so as themselves are made enemies, as
, they are no Kings, so neither ought they to be acknowledged by the people. What if
, thou shalt say, that some people subdued by force, the Prince hath compelled to swear
, to his commands? What, say I, if a Thiefe, a Pyrate, a Tyrant, with whom no so-
, ciety of Law or Right is thought to be, should with a drawn sword violently extort
, a deed from any one? Is it not known, that fealty extorted by force bindeth not,
, especially if any thing be promised against good manners, against the law of na-
, ture? Now what is more repugnant to nature, then that a people should lay chaines
, and fetters upon themselves, then that they should lay their own throats to the
, sword? then that they should lay violent hands upon themselves? (or which is verily
, the same thing) promise it to the Prince? Therefore there is a mutuall obligation
, between the King and people, which whether it be only civill or naturall, tacit, or
, in expresse words, can be taken away by no agreements, violated by no Law, rescin-
, ded by no force: Whose force only is so great, that the Prince who shall contemp-
, tuously,

L. 1. D. de pact. l. non minorem. 20 D. de transact.

Lib. 1. feudor. 2. 26. § 4. a tit. 47.

* *Dionys. Hal. l. 2 p. g. 303. 3 4.*

1 Cor 7: 15.

Cic. 1. Off.

, tuously break it, may be truly called a Tyrant, the people who shall willingly in-
, fringe, it seditious: So this grand accute Lawyer determines. I shall close up this with
, the unanimous resolutions and notable decree of the United *Netherland Provinces.*
, *Anno Dom.* 1581. declaring *Philip* King of *Spain* to be fallen from the Seigniorie of
, the *Netherlands* for his Tyranny and breach of Oath, which is thus recited by
, *Grimstone*, and recorded in his generall History of the *Netherlands*, page 658, to 667.

, In the alterations which happen sometimes in an Estate betwixt the Soveraigne
, Prince and a people that is free and priviledged, there are ordinarily two points,
, which make them to ayme at two divers ends: The one is, when as the Prince seeks
, to have a full subjection and obedience of the people, and the people contrariwise re-
, quire, that the Prince should maintaine them in their freedomes and liberties, which
, he hath promised and sworne solemnly unto them, before his reception to the princi-
, palitie. Thereupon quarrels grow: the Prince will hold a hard hand, and will
, seek by force to bee obeyed; and the subjects rising against the Prince, often-
, times with dangerous tumults, rejecting his authority, seek to embrace their full li-
, berty.

, In these first motions there happen sometimes conferences, at the instance of neigh-
, bours, who may have interest therin, to quench this fire of division betwixt the Prince
, and his subjects. And then if any one of the parties groweth obstinate, and will not
, yeeld, although he seeme to be most in fault, it followeth of necessity, that they must
, come to more violent remedies, that is to say to armes. The power of the Prince is
, great, when thee is supported by other Princes, which joyn with him for the conse-
, quence of the example, else it is but small: but that of the people (which is the body,
, whereof the Prince is the head) stirred up by conscience (especially if the question
, of Religion be touched) the members ordained for their function, doing joyntly their
, duties, is farre greater. Thereupon they wound, they kill, they burne, they ruine,
, and grow desperately mad: but what is the event? God (who is an enemy to all
, tyranny and disobedience) judgeth quarrels, weigheth them in his ballance of justice,
, helping the righteous cause, and either causeth the Prince for his rigour and tyranny
, to be chased away, and deprived of his estate and principality; or the people for their
, contempt and rebellion are punished and reduced unto reason; which causeth the
, alterations to cease, and procureth a peace: whereof we could produce many ex-
, amples, both antient and moderne, if the relation of this history did not furnish us
, sufficiently.

See Meteranus Belg. hist. lib.

, So the generall Estates of the united Provinces, seeing that King *Philip* would not in
, any sort (through his wilfulnesse) yeeld unto their humble suite and petitions; and not-
, withstanding all the offers they could make to purchase a good, firme, and an assured,
, peace, (notwithstanding all the intercessions both of the Emperour, the French King,
, the Queen of *England*, and other great Princes and Potentates of Christendom) yet
, would he not give eare to any other reason, but what himselfe did propound: the
, which the said Estates did not only find unjust and unreasonable, directly repugnant
, to their liberties, constitutions, and freedomes of the Countrey; but also contrary to
, their consciences, and as it were so many snares layed to catch them, which were in
, no sort to be allowed of, nor received, considering the qualitie of their affaires and his,
, according to the time. In the end, rejecting all feare of his power and threats, seeing

, they

, they were forced to enter into all courſes of extremity againſt a Prince, which held , himſelfe ſo hainouſly offended, as no reconciliation could be expected, relying upon , the juſtice and equitie of their cauſe, and ſinceritie of their conſciences (which are two , brazen bulwarks) they were fully reſolved (without diſſembling) to take the matter , thus advanced in hand, and oppoſing force againſt force, meanes againſt meanes, and , practiſes againſt practiſes, to declare him quite fallen from the Seigniorie, prehe- , minence, and authority, which before the troubles, the breach of their priviledges, , rights, freedomes, and immunities, ſo often and ſo ſolemnly ſworne by him, , and diſpenſation of his Oaths, he had or was wont to have in the ſaid Provinces reſ- , pectively. Whereof they made open declaration by a publick Edict, the tenour , whereof followeth.

The Edict of the generall Eſtates declaring the King of *Spaine* to be fallen from the Seigniory of the Netherlands.

, The Generall Eſtates of the united Provinces of the Netherlands, to all thoſe that , theſe preſents ſhall ſee, reade, or heare, greeting As it is well known unto all men, that , a Prince and Lord of a Countrey is ordained by God, to be Soveraign and head over , his ſubjects, and to preſeveve and defend them from all injuries, force, and violence, , even as a ſhepheard for the defence of his ſheep, and that the ſubjects are not crea- , ted by God for the Prince, to obey him in all he ſhall command, bee it with God, or , againſt him, reaſonable or unreaſonable, nor to ſerve him as ſlaves and bondmen; , but rather the Prince is ordained for his ſubjects (without the which he cannot be a , Prince) to governe them according unto equity and reaſon, to take care for them, , and to love them even as a father doth his children, or a ſhepheard his ſheep, who , putteth both his body and life in danger, to defend and preſerve them. If the *Prince* , therefore faileth herein, and in ſtead of preſerving his ſubjects, doth outrage and op- , preſſe them, depriveth them of their priviledges and ancient cuſtomes, commandeth , them, and will be ſerved of them as of ſlaves, they are no longer bound to reſpect him as , their Soveragn *Prince* and Lord, but to eſteem of him as a Tyrant; neither are the ſub- , jects (according unto Law and Reaſon) bound to acknowledge him for their *Prince*; , ſo as without any offence, being done with deliberation and the authority of the , Eſtates of the Countrey, they may freely abandon him, and in his place chuſe another , for their *Prince* and Lord, to defend them: eſpecially, when as the ſubjects by hum- , ble ſuit, intreatie, and admonitions, could never mollifie their *Princes* heart, nor di- , vert him from his enterpriſes an tyrannous deſignes: ſo as they have no other meanes , left them to preſerve their antient libertie, their wives, children and poſterity, for the , which (according to the lawes of nature) they are bound to expoſe both life and , goods; as for the like occaſions, we have ſeene it to fall out often in divers Countries, , whereof the examples are yet freſh in memory. The which ought eſpecially to bee , of force in theſe Countries, the which have alwayes been and ought to be governed, , according unto the oath taken by their *Princes*, when they receive them, conforma- , ble to their priviledges and antient cuſtomes, having no power to infringe them: , beſides that, moſt part of the ſaid *Provinces* have alwayes received and admitted their , *Princes* and Lords upon certaine conditions, and by ſworn contracts; the which if , the *Prince* ſhall violate, hee is by right fallen from the rule and ſuperiority of the , Countrey. So it is, that the King of *Spaine* (after the deceaſe of the Emperour , *Charles* the fifth, his father of famous memory, from whom all theſe Countries were , tranſported unto him) forgetting the ſervices, which as well his father as himſelfe

See *Meteranus* and others.

Note.

, had received of these Countries, and the inhabitants thereof, by the which especially , the King of *Spain* had obtained such glorious and memorable victories against his , enemies, as his name and power was renowned and feared throughout all the world; , forgetting also the admonitions which his said Imperiall Majesty had heretofore , given him: and contrariwise, hath given eare, beliefe, and credit unto them of the , Councell of Spain which were about him; the said Councell having conceived a , secret hatrrd against these Countries and their Liberties (for that it was not lawfull , for them to command there, and to govern them, or to merit among them the , chiefe places and offices, as they doe in the Realm of Naples, Sicilie, Millaine, at the , Indies, and in other Countries which are subject to the Kings command, being also , moved thereunto by the riches of the said Countries, well knowne to the most of , them:) the said councell, or some of the chiefe of them, have oftentimes given the , King to understand, That for his Maiesties reputation and greater authority, it were , better to conquer the Netherlands anew, and then to command absolutely at his , pleasure, than to govern them under such conditions, which he at his reception to the , Seigniory of the said Countries had sworn to observe. The *King* of Spain follow- , ing this counsell, hath sought all meanes to reduce these countries (spoiling them of , their ancient Liberties) into servitude, under the government of Spaniards: having , under pretext of Religion sought first to thrust in new Bishops into the chiefe and , greatest Townes, indowing them with the richest Abbeyes, adding to every Bishop , nine Chanons to serve him as Councellors, wherof three should have a special charge , of the Inquisition. By which incorporation of the said Bishops, being his creatures, , and at his devotion (the which should happily have been chosen as well of strangers, , as of them which were born in the Country) they should have the first place and the , first voyce in the assemblies of the Estates of the Country. And by the adiunction of , the said Chanons, had brought in the Inquisition of Spain, the which had also bin so , abhorred, and so odious in these Countries, even as slavery it selfe, as all the world , doth well know: So as his Imperiall Maiesty having once propounded it unto these , Countries, upon due information given unto His Maiesty, ceased from any more , speech thereof, shewing therein the great affection which he bare unto His Subiects. , Yet notwithstanding divers Declarations which were made unto the King of Spain, , as well by the Provinces and Townes in particular, as by some other of the chiefe , Noblemen of the Country, namely, by the Baron of Montigny, and afterwards by , the Earle of Egmont, who by the consent of the Dutchesse of Parma (then Regent of , the said Countries) by the advice of the Councell of Estate, and of the Generalty, , had to that end been successively sent into Spain: And notwithstanding that the king , had by his own mouth given them hope, that (according to their petitions) hee , would provide for the contentment of the Country; yet that he had since by his let- , ters done the contrary, commanding expresly, and upon pain of his indignation, to , receive the new Bishops presently, and to put them in possession of their new Bi- , shopricks and incorporated Abbeyes, to effect the Inquisition, where they had be- , gun to practise it, and to observe the Decrees and Canons of the Councell of Trent, , the which in divers points doe contradict the priviledges of the Countrey. The , which being come to the knowledge of the Commons, hath given just occasion of , so great an alteration among them, and greatly diminished the love and affection, , the which (as good subjects) they had alwayes borne unto the King, and to his pre-

, decessors.

, deceſſours. For they called chiefly into conſideration, that the King not onely pre-
, tended to tyrannize over their perſons and goods, but alſo upon their conſciences,
, whereon they held themſelves not to be anſwerable, nor bound to give account to
, any one but to God only. For this cauſe, and for the pitty they had of the poor peo-
, ple, the chiefe of the Nobility did in the yeare 1566. exhibit certain admonitions by
, way of a Petition, beſeeching him, that for the pacifying of the Commons, and
, to avoid all tumults and ſeditions, it would pleaſe his Majeſty, (ſhewing the love
, and affection, which as a mild and merciſull Prince he bare unto his Subjects) to
, moderate the ſaid points, and eſpecially thoſe which concerned the rigorous Inqui-
, ſition, and puniſhments for matters of Religion. And to informe the King more
, particularly thereof, and with more authority, and to let him underſtand, how ne-
, ceſſary it was for the good and proſperity of the Countrey, and for the maintenance
, of peace and tranquility, to aboliſh and diſannull thoſe innovations, and to moderate
, the rigour of publike Edicts, for matter of Religion; the ſaid Marqueſſe of Berges
, and Baron of Montigny, at the requeſt of the ſaid Lady Regent, the Councell of E-
, ſtate, and the Generall Eſtates of all the Countries, went into Spain as Embaſſadors:
, whereas the King, inſtead of giving them audience, and to prevent the inconveni-
, ences delivered by them, (the which, for that they were not redreſſed in time, as
, urgent neceſſity required, began in effect to diſcover themſelves throughout the
, whole Countrey) by the perſwaſion and advice of the Councell of Spain, hee hath
, cauſed all them to be proclaimed Rebels, and guilty of high Treaſon, and to have
, forfeited body and goods, that preſented the ſaid Petition. And moreover (think-
, ing himſelfe to be fully aſſured of the Countrey, by the Forces of the Duke of Alva,
, and to have reduced them under his full power and ſubiection) he had afterwards,
, againſt the Lawes of Nations, (the which have been in all ages inviolably obſerved,
, yea among the moſt barbarous and cruell Nations, and moſt tyrannous Princes)
, impriſoned, and cauſed the ſaid Noblemen Embaſſadors to be put to death, confiſca-
, ting all their goods. And although that all this alteration (which had hapned in the
, yeare 1566. upon the foreſaid occaſion) was in a manner pacified by the Regent and
, her councell, and that the greateſt part of them which had preſented themſelves un-
, to her for the Liberty of the Countrey, were retired, or chaſed away, and the reſt
, brought under obedience: yet not to loſe the opportunity which the Councell of
, Spain had long expected (as it appeared plainly the ſame yeere 1566. by Letters in-
, tercepted, which were written by the Embaſſador Alana to the Ducheſſe of Parma)
, to have meanes under ſome pretext to overthrow all the priviledges of the Country,
, and to govern them tyrannouſly by the Spaniards (as they did the Indies and other
, Countries which had been newly conquered by them) he by the advice and councell
, of the ſaid Spaniards (ſhewing therein the ſmall affection which he bare unto his
, Subiects of theſe countries, contrary unto that whereunto he was bound, as their
, Prince, protector and good Shepheard) ſent into theſe countries the Duke of Alva,
, very famous for his rigour and cruelty, and one of the chiefe enemies of theſe coun-
, tries, with a councell of the ſame Humour and diſpoſition. And although that the
, ſaid Duke of Alva entred with his Army into this countrey, without any let
, or oppoſition, and was received of the poore Inhabitants with all reverence and
, Honour, expecting all mildneſſe and clemencie, according unto that which the King
, had ſo often promiſed by His Letters fainedly written; yea, that He was reſolved to

, come himselfe in person into the Countrey, and to order all things to every mans , content; the said King having besides all this (at the very instant of the Duke of Alva , his departure) caused a fleet of ships to be armed in *Spaine*, to bring him hither, , and another in Zeeland to goe and meet him (as the bruite was) to the great charge , of the Countrey, the better to abuse his poore subjects, and to draw them more ea- , sily into his snares: notwithstanding, the said Duke of Alva presently after his , arrivall (although he were a stranger, and not any way of the blood Royall) gave , it out, that hee had a Commission from the King, of Governour Generall of , the Countrey, the which was quite contrary to the priviledges and antient , Customes thereof: and discovering his designes plainly, he suddenly put garrisons , into the chiefe Townes and Forts of the Countrey, and then he built Citadels in the , richest and strongest Townes, to keep them in subjection. And by commandement , from the King (as they said) he friendly called unto him, as well by letters, or other- , wise, the chiefe Noblemen of the Countrey, pretending, that he had need of their , councell and assistance, for the service of the King, and the good of the Countrey: , who (having given credit to his letters) were come unto him, whom, contrary to the , priviledges, hee caused to bee carried prisoners out of Brabant, where they had been , apprehended, causing their processe to bee informed before him and his Councell , (although they were no competent Iudges;) and before any due proofes were made, , and the Noblemen that were accused, fully heard in their defences, they were con- , demned to have committed Rebellion, causing them to be publikely and ignomi- , ously put to death. Others, who for that they were better acquainted with the Spa- , niards dissembling, were retired and kept out of the Countrey, were declared Rebels, , and guilty of high treason, and to have forfeited bodies and goods: All which was , done, to the end the poor inhabitants should not aide themselves in the just defence of , their liberty, against the oppression of the Spaniards and their forces, by the help and , assistance of these Noblemen, & Princes. Besides, an infinite number of Gentlemen & , rich bourgers, whereof some he hath put to death, others he hath chased away & for- , feited their goods, oppressing the rest of the good inhabitants, as well by the insolence , of the souldiers, as by other outrages in their wives, children, and goods; as also by di- , vers exactions and taxes, forcing them to contribute for the building of new Citadels , and fortifications of towns, which he made to oppresse them, & also to pay the hun- , dreth and the twintieth peny, for the payment of souldiers, wherof some were brought , by him, and others newly levied, to employ them against their Countreymen, and , themselves, who with the hazard of their lives sought to defend the liberties of their , Countrey: to the end that the subjects being thus impoverished, there should be no , meanes to frustrate his designes, for the better effecting of the instructions which had , been given him in *Spain*: which was, to use the Countrey as newly conquered. To , which end, in some places and chiefe Townes, he changed their forme of government, , and of justice, and erected new Consuls after the Spanish manner, directly contrary , to the priviledges of the Countrey. And in the end (thinking himselfe free from all , feare) he sought to bring in by force a certaine imposition of the tenth peny, upon all , marchandise and handi-works, to the absolute ruine of the Commons, whose , good and prosperity consists chiefly in traffique and handi-works; notwith- , standing many admonitions and perswasions made to the contrary, as well by every , one of the Provinces in particular, as by all in generall. The which he had effected

, by

,by force, if it had not beene that ſoon after by the means of the Prince of Orange, ,(and a good number of Gentlemen, and others borne in theſe Countries) baniſh- ,ed by the Duke of Alva, following the party of the ſaid Prince, and being for the ,moſt part in his ſervice, and other inhabitants affected to the libertie of their Coun- ,trey, the Provinces of Holland and Zeeland had not revolted, and put themſelves ,under the Princes protection. Againſt which two Provinces the Duke hath ſince ,during his Government, and after him the great Commander of Caſtile (ſent in his ,place by the King, not to moderate any thing of his *Predeceſſors* Tyrannie, but to ,purſue it more covertly and cunningly than he had done) forced thoſe ſaid *Provin-* ,ces, who by their Garriſons and Citadels, were made ſubject to the Spaniſh Yoke, ,to imploy their perſons and meanes to helpe to ſubdue them: yet no wayes eaſing ,the ſaid *Provinces*, but intreating them like enemies, ſuffering the Spanyards un- ,der the colour of a mutinie, in view of the ſaid Commander, to enter by force in- ,to the Town of Antuerpe, and there to continue ſix weeks, living at diſcretion at the ,poore Bourgers charge; forcing them moreover (to be freed from their inſolen- ,cies) to furniſh foure hundred thouſand florins, to pay the ſaid Spanyards: which ,done, the ſaid *Souldiers* (growing more bold through the ſufferance of their Com- ,manders) preſumed to take Armes againſt the Countrey, ſeeking firſt to ſurprize ,Bruſſels, and in the place of the ancient and ordinary ſeate of *Princes*, to make ,it a neſt and den of theeves. The which not ſucceeding according to their deſigne, ,they tooke Aloſt by force, and ſoone after forced the Towne of Maeſtricht. And ,ſince being violently entred into Antuerpe, they ſpoyled it, ſacked it, and waſted ,it with fire and ſword, in ſuch ſort, as the moſt barbarous and cruell enemies could ,not have done more, to the unſpeakable loſſe, not onely of the poore inhabitants, ,but in a manner of all the Nations of the world, who had their Merchandiſe, debts, ,and money there. And although the ſaid Spanyards by a Decree of the Councell ,of Eſtate (to whom the King by the death of the great Commander, had conferred ,the generall Government of the Country) were in the preſence of *Ieronimo de* ,*Rhoda*, proclaimed enemies to the Countrey: yet the ſaid *Rhoda* of his owne pri- ,vate authority (or as it is to bee preſumed, by vertue of ſome ſecret inſtruction ,which he had from Spaine) took upon him to be the head of the ſaid Spanyards, and ,their adherents, ſo as without reſpect of the Councell of Eſtate, he uſurped the kings ,Name and Authority, counterfeited his Seale, and carried himſelf as a Governour, ,and the Kings Lieutenant in theſe Countries. The which moved the Eſtates at the ,ſame inſtant to agree with the Prince of Orange, and the Eſtates of Holland and Zee- ,land: which accord was allowed by the Councell of State (as lawfull Governours) ,that they might joyntly with their common forces, make warre againſt the Spany- ,ards: Omitting not as good ſubjects, by divers humble petitions, to beſeech the ,King to have regard unto the troubles, oppreſſions and inſolencies which had hap- ,ned, and were like to follow: and that hee would bee pleaſed with all convenient ,ſpeed poſſible, to command the Spanyards to depart out of the Countrey, and eſpeci- ,ally thoſe which had been the cauſe of the ſack and ruine of the chiefe Towns of his ,Countrey, and other innumerable inſolences and violences which his poore ſubjects ,had endured, to the comfort and eaſe of them which had endured them, and to the ,example of all others: yet notwithſtanding; the King (although that he made ſhew ,by words, that what had hapned, diſpleaſed him, and was againſt his will, and

, that he had an intent to punish the heads and authors, and to provide for the quiet , of the Countrey with all clemency, as it behoved a mercifull Prince) hath not one- , ly neglected to punish the said Heads and Authors: but contrariwise, (as it appear- , eth) all was with his consent and former resolution of the councell of Spain, as cer- , tain letters of his, intercepted soon after, do plainly shew: by the which it was , written unto *Rhoda*, and to the other Captains, authors of all the mischiefe, That , the King did not blame that action, but did allow thereof, and commend it, pro- , mising to recompence them, especially the said *Rhoda*, as having done him a singu- , lar service: The which, at his return into Spaine, and to all other ministers of the , oppressions that were used in these Countries, he did shew by effect. At the same , time, the King thinking the better to blinde the eyes of his subjects, sent into these , Countries for Governour Generall, *Don Iohn* of Austria, his base brother, as , being of his blood: who (making shew unto the Estates, that he did allow of the , Pacification of Gant, promised to send away the Spanyards, to punish the authors , of all insolencies and disorders which had hapned in the Countrey, and to take an , order for the generall peace, and the restoring of their ancient liberties) sought to , divide the Estates, and to subdue one Countrey after another. By the permission , and providence of God, who is an enemy to all oppression, he was discovered by , the intercepting of certain letters, where he was commanded by the King to govern , himself in these Countries, according to the Instructions that should be given him , by *Rhoda*: and to cover this practice, the King had forbidden *Don Iohn* to speake , with him, commanding him to carry himselfe unto the chiefe Noblemen with all , mildenesse and courtesie, to winne their loves, untill that by their assistance and , meanes, he might reduce Holland and Zeeland, and afterwards work his will of the , other Provinces. Whereupon *Don Iohn*, notwithstanding that he had solmnly sworn , in the presence of all the Estates of the Countrey, to observe the said Pacification of , Gant, yet contrary thereunto he sought by meanes of their Colonels (whom he had , already at his devotion) and great promises, to winne the Germane souldiers who , were then in Garrison, and had the guard of the chiefe Townes and Forts of the , Countrey, whereof by that meanes he made himselfe master, holding himselfe assu- , red of those places they held, and so by that meanes to force them that would not , joyne with him, to make warre against the Prince of Orange, and them of Hol- , land and Zeeland, and so to raise a more boody and intestine warre, than had been , before. But as all things that are treated cunningly and with dissimulation, can- , not be long kept secret, *Don Iohns* practises being discovered, before hee could effect , what he had designed, hee could not bring his conceptions and enterprises to the , end that he pretended: Yet he revived a new warre, the which continues unto this , day, in stead of rest and an assured peace, whereof hee did so much vaunt at his , coming. Which reasons have given us great occasion to forsake the King of Spain, , and to seeke some other mighty and mercifull Prince, to helpe to defend these Coun- , tries, and to take them into his protection: and the rather for that these Coun- , tries have endured such oppressions, received such wrongs, and have been forsa- , ken and abandoned by their Prince for the space of twenty years and more; du- , during the which the Inhabitants have beene intreated not as subjects, but as ene- , mies, their naturall Prince and Lord seeking to ruine them by armes. Moreover, , after the death of *Don Iohn*, having sent the Baron of Selles, who (under colour

of

propounding some meanes of an accord) declared sufficiently, That the king would not avow the Pacification made a Gant (which *Don Iohn* notwithstanding had sworne to maintaine) setting downe more hard conditions. Yet for that we would discharge our selves of our duties, wee have not omitted to make humble suite by writing, imploying moreover the favour of the greatest Princes of Christendome, seeking by all meanes without intermission, to reconcile our selves unto the King; having also of late kept our deputies long at Cologne, hoping there (by the intercession of his imperiall Majestie, and some Princes Electors) to have obtained an assured peace, with some moderate tollleration of Religion (the which doth chiefly concerne God and mens consciences) as the estate of the affairs of the Countrey did then require: But in the end we found it by experience, that nothing was to be obtained from the King, by the Conference at Cologne: and that it was practised and did onely serve to disunite and divide the Provinces, that they might with the more facility vanquish and subdue first one, and then another, and execute upon them their first designes. The which hath since plainly appeared, by a certain proscription, which the King hath caused to be published, whereby we and all the Inhabitants of the united Provinces, and Officers that hold their partie, are proclaimed Rebels, and to have forfeited lives and goods: Promising moreover, a great summe of money to him that should murther the said *Prince*, and all to make the poore Inhabitants odious, to hinder their Navigation and Traffique, and to bring them into extreme despaire. So as despairing of all meanes of reconciliation, and destitute of all other succours and ayde we have according to the Law of nature (for the defence of us and other Inhabitants, the Rights, priviledges, ancient customes, and libertie of the Countrey, and the lives and honours of us, our wives, children, and posterity, to the end they fall not into the slavery of the Spanyards, leaving upon just cause the King of Spaine) beene forced to seeke out some other meanes, such as for the greater safety and preservation of our Rights, *Priviledges*, and liberties, we have thought most fit and convenient.

We therefore give all men to understand, That having duely considered all these things, and being prest by extreme necessitie, We have by a generall resolution and consent, declared, and doe declare by these presents, the King of Spaine, *ipso jure*, to be fallen from the Seigniory, *Principalitie*, jurisdiction, and inheritance of these Countries: And that we are resolved, never to acknowledge him any more, in any matter concerning the *Prince*, jurisdictions or demeanes of these Netherlands, nor to use hereafter, neither yet to suffer any other to use his Name as Soveraigne Lord thereof. According to the which we declare all Officers, private Noblemen, Vassels, and other inhabitants of these Countries, of what condition or qualitie soever, to be from henceforth discharged of the Oath which they have made in any manner whatsoever, unto the King of Spaine as Lord of these countries, or of that wherby they may be bound unto him. And for the above-named reasons, the most part of the said united *Provinces*, by a common accord and consent of their Members, have submitted themselves under the command & government of the high and mighty *Prince*, the Duke of Aniou and Alanson, &c. upon certain conditions contracted and accorded with his Highnesse: and that the Archduke of Austria, *Mathias*, hath resigned into our hands the government generall of these

Countries

, Countries, the which hath been accepted by us. We enjoyn and command all Iud-
, ges, Officers, and all others, to whom it shall appertain, That hereafter they forbeare
, to use any more, the name, titles, great seal, or signet of the K. of *Spain*: and instead
, therof, whilst that the Duke of *Anjou*, for his urgent affaires, concerning the good
, and welfare of the Country, shall be yet absent, for as much as shall concern the Pro-
, vinces which have contracted with his Highnesse, and touching the rest by way of
, provision, they shall use the title and name of the chiefe and Counsell of the Coun-
, try. And untill that the said heads and Counsellors, shall be named, called, and really
, established in the exercise of their charges, and offices, they shall use our name, ex-
, cept Holland and Zeeland, where they shall use as they have formerly done, the name
, of the Prince of Orange, and of the Estates of the said Provinces, untill that the said
, Councell shall be in force, and then they shall govern themselves as it is agreed, tou-
, ching the instructions given for the said Counsell, and the accords made with his
, Highnesse. And instead of the Kings seales, they shall hereafter use our Great Seale,
, counter Seale, and Signet, in matters concerning the government generall, for the
, which the Councell of the Country, according to their instructions shall have au-
, thority. And in matters concerning the policie, administration of Iustice, and other
, private acts of every Province, the Provinciall Councels and others, shall respective-
, ly use the name and Seale of the said Province, where the matter shall be in questi-
, on, and no other, upon pain of nullity of the said Letters, or Dispatches which shall
, be otherwise made or sealed. And to the end these things may bee the better ob-
, served and effected, we have enjoyned and commanded, and do enjoyn and com-
, mand by these presents, That all the King of Spaines Seales, which are at this present
, within these united Provinces, shall be dilivered into the States hands, or to him
, that shall have commission and authority from them, upon pain of arbitrary punish-
, ment. Moreover, We ordain and command, that from henceforth the name and
, armes of the King of Spain, shall not be put nor stampt in any coynes of these united
, *Provinces*: but there shall be such a figure set upon them, as shall be appointed for
, the coyning of new peeces of Gold and Silver. In the like sort we enjoyn and com-
, mand the president and Lords of the privie Councel, and all other Chancellors, pre-
, sidents, *Provinciall* Consuls, and all *Presidents* and chiefe Masters of accounts, and
, others of all chambers of accounts, being respectively in these countries, and also all
, other Iudges, and Officers (as holding them discharged of the oath which they have
, made unto the King of Spain, according to the tenor of their Commissions) that they
, shall take a new oath in the hands of the Estates of the *Province* where they are, or to
, their Deputies, by the which they shall swear to be faithfull to us against the King of
, Spain, and his adherents, according to the form set down by us: and there shall be
, given to the said Councellors, Masters of accounts, Iudges and Officers, remaining
, in the *Provinces* which have contracted with the Duke of Anjou, in our name, an
, act of continuance in their Offices, containing in stead of a new commission, a cessa-
, tion or disannulling of their former, and that by way of provision, untill his comming.
, And to Councellors, Masters of accounts, Iudges, and Officers, being resident in
, *Provinces*, which have not contracted with his Highnesse, a new Commission shall
, be given under our name and Seale, if the petitioners were not found faulty, to be of
, bad behaviour, to have done against the priviledges of the Countrey, or to have
, committed some other disorder.

We

,We also command the President and them of the privie Councell, the Chancellour ,and Councell of Brabant, the Governour, Chancellour, and Councell of Gueldres, and ,the Countie of Zutphen, the President and councell in Flanders, the President and ,councell in Holland, the Governour, President and Councell in Friseland, the Pre-,sident and Councell at Vtricht, the Bayliff at Tournay and Tournesis, the Receivors ,or chiefe Officer of Beoosterscheldt and Bewesterscheldt Zeeland, the scout of Mack-,lyn, and all other Iudges and Officers whom it shall concerne, their Lieutenants, and ,every of them, presently without any delay, to publish this our Decree in all places ,of their jurisdictions, and wheresoever they are accustomed to make proclamations, ,to the end that no man may pretend any cause of ignorance: And that they may ,keep and observe, and cause to be kept and observed inviolably this our Decree, with-,out any favour, support, or dissimulation; for wee have so thought it fit and conve-,nient for the good of the Countrey. For the effecting whereof, we give to every one ,whom it shall concerne, full power and authority, and speciall Commission. In ,witnesse whereof, we have caused our seale to be hereunto annexed. Given at the Hage ,in our assembly the 26 of Iuly 1581. Vnderneath was written, By the ordinance and ,decree of the said Estates, and signed *I. Tan Asseliers.*

,According unto this declaration of the Estates, there was a new forme of an ,Oath drawn, in manner of an abjuration of the King of *Spaine*, and pro-,mise of duty and obedience which every one should owe unto the said Estates, ,by the publike Officers, and Magistrates of every Town and Province, as fol-,loweth.

,I sweare, That hereafter I shall not serve nor yeeld obedience to *Philip* King of ,*Spaine*, nor acknowledge him for my Prince and Lord, whom I doe renownce by ,these presents, and doe hold my selfe freed from all Oaths, and bonds, by the which ,I might bee formerly tyed unto him: whereof finding my selfe presently delivered ,I sweare anew and binde my selfe to the united Provinces, and namely, to them of ,Brabant, Gueldre, Holland, Zeeland, and their allies, and to the soveraign Magi-,strates that are appointed, to bee faithfull and loyall unto them, to yeeld ,them all obedience, aide, and comfort, with all my power and meanes, against ,the King of Spaine and his adherents, and against all the enemies of the Coun-,trey. Promising as a good vassall of the Countrey, to carry my self faith-,fully and loyally, with shew of all obedience to my superiors; So help me the Al-,mighty God.

The forme of the oath of abjuration of the King of *Spaine*.

,This decree being thus proclaimed, all the seales, counter-seals, and secret signets of ,the King of *Spaine*, were broken and cancelled with solemnity, by all the consuls of ,the said Provinces, and others new made, by order of the generall Estates, for that ,which concerned the Government, and the affaires of the generality. And as for mat-,ters of justice and policie, they used the seales, names, and titles of private governours, ,and Provinciall consuls. From that time there was no coynes of gold, silver, or copper ,made with the name or titles of the King of *Spaine*, but upon stamps which the E-,states had caused to be made in every Povince. All governours, superintendents, Pre-,sidents, Chancellours, Councellours, and others Officers, were discharged and ,absolved from their precedent oathes, and did sweare fidelity to the generall ,Estates, against the King of *Spaine* and his adherents, according to the forme above ,mentioned, to whom an act was sent for the continuation of the Commissions.

Observ. 5. Ninthly, it is evident from the premises; *That if Emperours and Kings shall degenerate into Tyrants violate their Oathes and Covenants made unto the people, invade their Lawes, Liberties persons with armed violence, and instead of protecting, make warre upon them; that the Nobles, Magistrates, Estates, Parliaments and people in such cases, may without any guilt of Treason, Rebellion, Sedition, not only disobey, but Lawfully resist them with force of Armes, both in point of Lawe & conscience, & are obliged under paine of treachery and perfidiousnesse to their Countrey, thus to resist; and in cases of incorrigibility for the publike weale, and preservation, may justly if they see it necessary, depose them from their Royall Dignities as Enemies, or Traytors to their Kingdoms and people.* The reason is, *Because no Kingdome or Nation under Heaven, ever elected or voluntarily submitted themselves unto any Emperour or King whatsoever (for ought can be proved or imagined) but upon this tacit condition; that they should justly governe, defend and protect them for their good, not tyrranize over, pillage, murther, oppresse, or make warre upon them at their pleasures, contrary to the Lawes of God, nature, nations; Nor yet actually obliged themselves under paine of Treason, Rebellion, death, or damnation, not forcibly to re-obsist or deprive their Princes in any wise, though they with open violence should set themselves to subvert their Religion, Lawes, Liberties, and Republike; to which unreasonable condition, no Natian certainty would have consented, had it been propounded to them by their Kings at first, as* Grotius *well observes.* This point of greatest difficulty and concerment, I have largely debated and confirmed already, in the third part of this Discourse, where all contrary Objections against it, are refuted; Yet because it still seemes a seditious unchristian Paradox to many Malignants and Royallists, I shall ratifie it with such new Authorities, of all sorts, which may happily convince, if not convert them from their inveterate wilfull error.

* *De jure Magistratus in subdito. p. 293. 294 295. Hugo Grotius de Iure Bel. l. 1. c. 4 §. 7. p. 85.*

My first Authority of this kinde, is that passage of *Sozomon* (an ancient Ecclesiasticall Historian) *Eccles. Hist. l. 6. ch. 2.* recited and approved *by Nicephorus Callistus Eccles hist l. 10. ch. 34.* where he thus writes of the death of *Iulian the Emperor* (who turned both a *Tyrant, Apostate, and Persecutor* of the Christians) reputed to be slaine by a Christian Souldier of his own Army, for his Tyranny and impiety. *Whereas* Libanius *writes in this manner; Hee seemes to say, that the slayer of* Iulian *the transgressor was a Christian, which peradventure was true; Neither is it incredible, that some one of the Souldiers who marched under his colours had considered these things thus in his minde: That not only the Heathens, but likewise ALL OTHERS are wont to applaud those even unto our Age, who slew Tyrants heretofore, as those who for the liberty of all, feared not to undergoe the danger of death, and likewise for the safety of their Citizens, Kindred and friends, with willing minds. And verily hee CANNOT WELL BE REPREHENDED BY ANY MAN, especially since hee should shew himselfe so valiant and strenuous FOR GOD AND that RELIGION which hee did approve, &c. However it is certaine that he was taken away by Gods divine judgement.* * Nicephorus *addes, that his death was predicted by the Christians, and that his death WAS ACCEPTABLE AND PLEASANT TO ALL CHRISTIANS, especially to those of Antioch, WHO FOR THIS HIS MVRTHER, INSTITVTED A PVBLIKE TRIVMPH, Wherein they also reproached* Maximus *the Philosopher, singing thus, Where are thy divinations O foolish Maximus?* A pregnant evidence, that even the Primitive Christians (on whose examples and practice our Antagonists so much depend, though

* *Eccl. Hist. l. 12. c. 5.*

to

to no purpose, as I have * elsewhere manifested) held it not only lawfull for them to resist, but even in some cases to slay a persecuting Apostatized Tyrant, bent to subvert Religion, Lawes, Liberties; as may be further evidenced by (a) *Constantine the great his ayding the oppressed Christians, and Romans against the Tyranny and Persecution of the Emperors* Maxentius, Maximinus *and* Licinius, *even with force of Armes, with which he Conquered these Persecutors in sundry open battels fought against them, at the Christians earnest importunity.*

To descend to later Authoritities, it is the received Doctrine of all Popish Schoolmen, Doctors, Lawyers, *That tyrannicall Princes who oppresse and invade their subjects persons, liberties, estates, or religion, may both lawfully with good conscience bee forcibly resisted by their Subjects, and likewise by the major part of their People, Nobles, Parliament, for preservation of the Republike and Religion, bee justly deposed, and put to death;* yea, as some of them adde, *even murthered by private men, though the generality of their Writers justly deny it.* Their St. *Thomas of Aquin*, in his Book *De Regimine Principum* (dedicated to the King of *Cyprus*) * *cha* 6. determines thus, *If it belong to the multitude to provide themselves of a King; the King made by them, may not unjustly be removed, destroyed, or his power restrained, if he abuse the power of the Realme tyrannically; Neither is such a multitude to bee esteemed,* TO DEALE DISLOYALLY IN DEPOSING A TYRANT ALTHOUGH THEY HAD PERPETUALLY SUBIECTED THEMSELVS TO HIM BEFORE, BECAUSE HIMSELFE HATH DESERVED IT, *in not carrying himselfe faithfully in the Government of the people, as the Office of a King required, because herein he kept not his Oath and Covenant with his subjects.* And he further affirmes, 2 *Distinct. Art.* 44. *qu.* 2. 2.5^m. 1. 2^x. *Dist.* 44. *qu.* 2. 2. 5^m. 1. 2^x. *qu* 79. 4. 3^m. 22^x. *qu.* 12. *art.* 2. & *qu.* 42. 2. 3^m. *Opusc.* 10. *l.* 4. *c*^o. 1. *That in every Country, Cities are governed politikely; the power of Kings and Emperours being circumscribed by the Lawes and people, That a Tyrannicall Prince, if hee invade his Subjects, may lawfully bee resisted and slaine even of private persons in their own necessary defence, and in reference to the publike safety; but much more by the Nobles and peoples generall consent: And that the deposition or perturbation of the regiment of a Tyrant,* HATH NOT THE REASON (*or nature*) OF SEDITION, *unlesse it be done by private persons, or so disorderly, that a greater detriment should ensue,* BVT IT IS THE TYRANT RATHER WHO IS SEDITIOVS. The same Doctrine is taught by *Dominicus Soto, de Iustitia. l.* 5. *quæst.* 1. *art.* 3. Ludovicus Molina *Tom.* 4. *De Iustitia & Iure Tract.* 3, *disp* 6. *to* 20. Dominicus Bannes, 2a. 2 *x quæst.* 64. *Art.* 3. *Dub.* 2. Petrus de Aragon. 2 ^x *qu* 64. *a.* 3 *Explicatio. art. p.* 248. Michael Bartholomæus Salon, *de Iustitia & Iure in* 2. 2^x *Tom.* 1. *qu.* 64. *art.* 3. *cont.* 1. *pag.* 385. Petrus de Lorca in 2 2^x *D. Thome q. quæst.* 40. *art.* 3 *sect.* 3. *throughout, specially Disput.* 50. *n.* 2. & *Disp.* 52. 53. Azorius, *Tom.* 2. *l.* 21. *disp* 5. *qu.* 8. & 5. Franciscus Victoria. *Relectio 'De Iure Belli. n.* 9. 14. Alphonsus Salmeron *in cap.* 13. *Epist. ad Romanos. Disp* 5 Fran. Suarez. *in Defensione fidei l.* 3. *cha.* 3. & *l.* 6. *chap.* 4. *throughout specially, num.* 5. 6 13. 14. 15. 16. Ioan Gerson *de Auferibilitate Papæ*, where also he avers (consid. 6. *that one who is truly Pope may lawfully bee bound, imprisoned, and put to death for his offences,* though the head of the Church as Pope should, as well as Kings the head of their Realmes.) *Dionysius Cathusianus de Regim. Polit. Artic.* 1. *Franciscus Zelles, in summa, l.* 5. *c.* 6.

* *Part* 3. *f.* 137. 143.

(a) *Eusseb. l.* 2. *vita Constan. & Eccles. Hist. l.* 9. 10. *Socrat. Scholast. Hist. l.* 1. *Sozomen. Niceph. Call. Eccles. Hist. l.* 7. 29. 37. 39. 44. 45. *Grimston Panopius Zosimus Salellicus Volaterranus in the Lives of Constantine Maximinus and Maxentius.*

* *Operum. Antverpiæ.* 1612. *Tom.* 17. *f.* 163.

Leonardus Leſſius de Iuſtit. & Iure, c. 9. dub. 4. Tannerus, Tom. 3. diſp. 4. qu. 8. dub. 3. Emanuel Sa. in Aphoriſm. Verb. Tyrannus, n. 2. Iohannis Mariana: De Rege & Regis Inſtit. l. 1. c. 5, 6, 7, 8. Alvarus Pelagius de Plan. Eccleſ l. 1. c. 21. Simancha Pacenſis, de Cathol. inſtit. tit. 23. n. 11. p. 98. tit. 45. n. 25. p. 209. Gregorie de Valencia, Tom 3. p. 444. Cardinall Bellarmine, de Pontif. Rom. l. 5. c. 6. 7. 8. & Tract de Poteſt. Sum. Pontif. adverſ. Gul. Barcl. p. 97. Iac. Gretzerus Pharetra Tertulliana, & Veſpertilio Haritico-Politicus, Ludovicus Richehom. Expoſtulatio Aplogetica, pro Societate Ieſu. Vincentius Filiucius Tra. 28. p. 2. diſ. 4. pra. Dec. n. 12. Mart. Becanus Anglicana de Poteſtate Regis & Pontificis, Caſpar. Schoppius. Alexi Pharmacum Regium, & Collyrium Regium. Valentine Jacob. An. 1524. and Iohn Tanquerel Anno. 1561. whoſe opinions are recorded by *Bochellus Decreta. Eccleſ. Gal. l. 5. tit. 4. c. 6. 8.* the Cardinall of *Como* his Letter from *Rome*, 30. *January*, 1584. to Doctor *Parrey* to murder Queen *Elizabeth*; *Franciſcus de Verona Conſtant. in Apolog. pro Io: Chaſtel, p. 133. Bonarſcius* the Ieſuite, *Amphith p. 101. Barclay l. 3. adverſ. Monarch. c. 8. l. 6. c. 23. & 24. Serarius in c. 3. Iudicum. Hieronymus Blanca Rerum Aragonenſ. Commentarius, paſſim. Cajetan:* upon *Aquinas* his forecited Summes. the Doctors of *Salamancha* in their Determination, *Anno* 1602. recorded by *G. Blackwell, qu Bip. p. 56.* and Doctor *John White* his Defence of the Way, *c. 6. p. 16. Governado Chriſtiano, p. 43. Antonius Maſſa Tract. contra Duell. n. 78. 79. Baldus 3. Conſid. 313. Cavarruvias Quæſt. Illuſtr. T. 2. 505. n. 1. 399. n. 6. Vaſquius contro. Illuſtr. 16. n. 15. 19. 21. 17. n. 1. 23. 20 n. 344. n. 3. 73. n. 12. 13. 5. 72. n. 7.* and elſewhere *Hemingius Arniſæus de Authoritate Principum p. 18. 50. 77. 80. 83. 95. 122. Fran. Hotomani Franco-Gallia, c. 6. 7. 10. 13. 15. 18. 19. &c.* To which I might adde our Engliſh Prieſts and Ieſuites, as Doctor *Nicholas Saunders, Viſib. Monarch. p. 70, 71.* Doctor *Allen, Parſons, Creſwell, Philopater, Roſſæus, Doleman, p. 32. to 74. ſparſim,* with ſundry others, all profeſſedly averring *Aquinas* his Doctrine, and the premiſſes, yea, farre exceeding them in ſundry particulars; many or moſt of them *attributing ſufficient Authority and power to the Pope and Prelates alone, without the Parliaments, Nobles, Peers, or Peoples aſſent, to depoſe, adjudge Hæreticall or tyrannicall Kings to death, and devote them to aſſaſſination,* which all Proteſtants unanimouſly diſclaim. But wee need not fiſh in theſe unwholeſome Romiſh Streams of *Tyber*, or make uſe of theſe Popiſh Champions, whom I have onely named, to ſtop the mouthes of all Papiſts, Prieſts, Ieſuites, who now much exclaim againſt the *Parliaments* preſent defenſive Warre, condemning all for Rebels and Traitors who aſſiſt the *Parliament* againſt their invading traiterous, Rebellious armed Forces both in *Ireland* and *England*, they being in verity ſuch themſelves, yea, the originall contrivers, fomenters, the principall abettors of the preſent bloody, deſtructive, civill Wars in both our Realms. And that which moſt confirms me in this beliefe, is a particular late Diſcovery of the horrid Conſpiracy of *Con* the *Popes* late *Nuncio* here, and his Ieſuited *Popiſh* Confederates, to undermine and extirpate the *Proteſtant* Religion, to raiſe the Scottiſh, and ſucceeding Iriſh, and Engliſh Wars, thereby to ingage the King to reſort to them for aſſiſtance; & under pretence whereof to riſe up in arms, and work him to their own conditions, or elſe to poyſon him with a Indian poyſoned Nut after the example of his Father, and then ſeize upon the *Prince*, and train him up in their Antichriſtian Religion, as you may reade at large in *Romes Maſterpeece*, to which I ſhall referre you for fuller ſatisfaction, from one of the chief Conſpirators own Confeſſion. But paſſing by all theſe, I

ſhall

shall proceed to Authorities of Lawyers and Divines, professing the *Protestant* Religion. *Georgius Obrectus*, a publike *Professor* of Law, and Advocate to the City of *Strasburge* in his *Disputatio Juridica*, 1. *De Princ. piis Belli*, layes down these severall *Positions* for Law, Num. 125. to 139. , That all the Inferiour Magistrates in the , Empire or other Kingdoms, collectively considered, are above the Emperour and , Kings themselves; that if they be unjustly assaulted with unjust violence by any , whomsoever, they may by a necessary and just warre, defend both themselves and , theirs, and repell and prosecute the unjust assailants. That if the Superiour Magi- , strate neglect to do his duty, (as if the *Turke* should invade any Countrey, and the , Supreme Magistrate would not resist him,) the inferiour Magistrate may call the , people to Arms, raise an Army, and exercise all forces policie and devices against the , common enemy of Christians: Or if the Supreme Magistrate should exercise manifest , Tyrannie, it is verily lawfull to the Inferiour to undertake the care of the Repub- , like, which he endeavours to oppresse with all his power: That those who represent , all the people, as the Electors, Palatines, Nobles, Parliament, may admonish the , Prince of his duty, and ought to seek by all means to divert him from his Tyranni- , call and impious purpose; but if he proceeds, and repenteth not, being frequently , admonished, but wilfully subverts the Common-wealth, obstinately perverts Laws; , hath no care of faith, covenants, justice, piety; and tends onely to this, that he may , perpetrate any thing with impunity, and impiously reign over mens consciences, then , verily he is accounted a Tyrant, that is, an enemy of God and man; whence, if he , hath proceeded to that hight of malice, that hee cannot bee expelled but by armed , force, **It is Lawfull** for the Electors, *Palatines* and others, to call the people to , Arms, and not onely to defend themselves and others against such a one, but plainly , to deject him from his Throne: For the intire Government of the Realm is not com- , mitted by the people to the *Prince* alone, as neither the Bishopprick of the whole , Church to the *Pope*, but to every one of the Nobles or Magistrates according to his , power: For the Nobles, as they are called into part of the honour, so of the burthen , of the Commonwealth; which is committed to the *Prince*, as to the Supreme Tutor, , but to them as Fellow-tutors, he having the first, they the second place in governing , the Republike. The *Prince* swears that he will seek the good of the Realm, and all , the Nobles promise the same: therefore if he doth ill, they ought not to do so like- , wise; if the Republike go to ruine, they shall not continue: For the Common- , wealth is no lesse committed to them, than to the King, so as they ought not onely , to do their duty, but also to contain the *Prince* within the limits of his duty: For if , the *Prince* doth ought against his Oath, they are not absolved from their Oaths, , but rather then especially ought to manifest their fidelity, when the Republike , requires it, because they were specially instituted for that end, as the Ephori, and , every thing ought to be reputed just, when it attains its end. Hence *Brutus* the Tri- , bune, and *Lucretius* the Governour of the City, called the people to Armes , against *Tarquin* the proud, and by their authority expelled him the Ringdom. So , the Roman Senate judged *Nero* an enemy of the Republike, and condemned , him to the Gallowes; punished *Vitellius* with death, ignominiously mutilated , and dragged thorow the City, and spoyled *Maximinus* of the Empire, set- , ting up *Albinus* in his place. Thus the French by Authority of a pub- , like Councell, thorow the care of the Officers of the Realme deprived

, *Childericke* the first, *Sigebert*, *Theodoric*, and *Childericke* the third of the govern-
, ment of the Realm. Neither is it impertinent to pronounce the same sentence of such
* *Valerius Maxim. l. 6. c. 7.* , a one, as was given of *Manlius Capitulinus*, * *Thou wast Manlius whiles thou*
, *diddest cast down the Senons headlong*; *Now because thou art become one of the*
, *Senons, thou thy selfe art to be precipitated from whence thou diddest cast them down.*
, But if perchance most of the Nobles collude and connive, and being unmindfull of
, their duty, take no care of the people; let there at least be one who may admonish and
, detest the invading Tyrant, and take care that the Republike sustain no detrimen-
, For the care of the Republike is no lesse committed to him, than to the *Prince* and
, his Collegues, and he hath plighted his faith to the Republike no lesse than they.
, If many have promised the same thing, the obligation of the one is not taken away
, by the negligence or periury of the other. If there be many Trustees, Executors, or
, Guardians, the negligence default or fraud of some of them, doth not discharge or
, disingage the rest; yea, unlesse they to their power discharge their trust and Oath,
, they become perfidious, yea guilty of the same crime, and are subject unto actions
, for their neglect as well as the others: Therfore those who are bound to the whole
, Kingdom and Empire, as the Peers of *France*, the Electors, or to some certain Coun-
, tey or City which makes a part of the Realme, as Dukes, Marquesses, Earles, Con-
, stables, Admirals, and the like, are obliged to ayde the whole Common-wealth, or
, that part committed to them, against the tyranny of the *Prince*, if they be able, &c.
Thus and much more this Lawyer, almost *verbatim* out of *Iunius Brutus*.

I might add to him the like determinations of *Henricus Bocerus*, *De jure pugnæ, hoc est, Belli & Duelli, Tractatus Methodicus, Tubingæ*, 1591. *lib.* 1. *cap.* 5. & 29. *p.* 141 *Justus Eccardus*, *De Lege Regia*, the last Edition. *Althusius Polit. c.* 4. *p.* 146. *to* 153. *Hænor*, *Disputat. polit.* The Treatise *De Iure Magistratus in Subditos*; (where this Position is largely and learnedly debated, confirmed, both from Law, History, Theology, Reason) *Hugo Grotius de Iure Belli & pacis*, *lib.* 1. *c.* 4. *sect.* 7. *to the end. p.* 87. *&c. Albericus Gentilis de Iure Belli*, *l.* 1. *c.* 11. *p.* 84. *c.* 25. *p.* 205. *l.* 3. *c.* 9. 22. *p.* 546. 686. with others. But since *Iunius Brutus* comprises the quintessence of all the rest, I shall trouble you onely with his Discourse. *Vindiciæ Contr. Tyrannos*, *Quæst.* 3. *p.* 177. to 106. To passe by his Discourse concerning the resisting of Tyrants, who usurp a Dominion without any Title, whom every man may justly resist and suppresse, and are bound in duty so to do, as he there proves at large; I shall only transcribe what concernes them who have a lawfull Title. First (saith he) we ought
, to consider, that all Princes are born men. We cannot therefore expect to have only
, perfect *Princes*, but rather we ought to thinke it well with us, if we have
, gained but indifferent ones. Therefore the *Prince* shall not presently be a Tyrant,
, if he keep not measure in some things, if now and then he obey not reason; if hee
, more slowly seek the publike good; if he be lesse diligent in administring Iustice,
, or lesse fierce in propulsing warre. For seeing a man is not set over men, as if he were
, some God, as he is over beasts; but as he is a man, born in the same condition with
, them; as that *Prince* shall be proud, who will abuse men like Beasts, so that people
, shall be unjust, who shall seek a God in a Prince, and a Divinity in this frail Nature.
, But truly if he shall willingly subvert the Republike; if he shall wilfully pervert the
, Lawes, if he shall have no care of his faith, none of his promises, none of Iustice, none
, of piety; if himselfe become an enemy of his people, or shall use all or the chiefest

, notes

, notes we have mentioned, then verily he may be iudged a Tyrant, that is, an enemy of , God and men. Therefore we treat not of a Prince, *lesse* good; but of the worst; , not of one lesse prudent, but of a malicious and subtile one; not of one unskilfull , in Law, but of a contemner of Law; not of an unwarlike one, but of an enemy of , the people and waster of the Realme. A Senate may assist him with prudence, a , Iudge with the knowledge of the Law, a Captain in the skilfulnesse of warre; but , this man wisheth the Nobles, Senators, Captains of Warre one neck, that he might , cut them off at one stroake, neither hates he any more then them. The first verily, , though he may lawfully be removed, yet however he may be tolerated; the latter , contrarily, by how much the longer he is tollerated, the more intollerable he be- , comes. Moreover, as euery thing is not lawfull to a *Prince*; so often times, that , which is lawfull to the people, is not expedient. For frequently it may fall out, that , the remedy which is used, may be worse than the disease. Therefore it becomes a , wise man to try all things, before he use the hot Iron; and use all remedies, before , he take up armes. If therefore those who represent the people perceive any thing to , be done against the Republike by force or fraud, let them first admonish the Prince; , neither may they expect, till the mischiefe grow heavie, and acquire forces. Ty- , ranny is like an heptick Feaver, which at first is easie to be cured, difficult to be dis- , cerned; afterward it becomes easie to be known, but very difficult to be cured. , Therfore they shall withstand the beginnings, neither should they pretermit any , thing, though the smallest. But if he shall proceed, and not repent though frequent- , ly admonished, but tend onely to this, that he may commit any thing without , punishment; then verily he is really guilty of Tyranny, and they may act against , him, whatsoever they may use against a Tyrant, either by Law or iust force. Tyran , ny is not onely a crime, but the head, and as it were, the heap of all crimes. A , Tyrant subverts the Republike, makes a prey of all, lyeth in wait for the life of all, , violates faith to all, contemnes all the Religion of a sacred Oath. Therefore is he so , much more wicked then any Theefe, murtherer, sacrilegious person, by how much , it is the more grievous, to offend many and all, then particular persons. Now if all , these be reputed enemies, if they be capitally punished, if they suffer paines , of death, can any one invent a punishment worthy so horrid a crime? , Moreover, wee have proved, that all Kings receive their Royall Dignity from *Nota* , the people; that all the people are better and higher then the King, that the King is , onely the superiour minister and Ruler of the kingdome, the Emperour of the Em- , pire, but the people are the true head. Therfore it follows, that a Tyrant who commits , felony against the people as the Lord of the fee, hurts the sacred Majesty of the Realm *In Tract. de* , and Empire, & so is a Rebel, and therfore falls into the danger of the same Lawes, *Tyranno, & la* , and demerits more grievous punishments. Therfore, saith *Bartolus*, he may be deposed *Tract. de reg.* , by a Superiour; or be most justly punished by the Julian Law, for publike violence. *Civit.*

, Now all the people, or those who represent them, as Electors, Palatines, Nobles , the Assembly of the Estates, &c. are his Superiour. But and if he shall proceed so , farre, that he cannot be expelled but by armed violence, then verily it shall be law- , full for them, to call the people to Armes, to raise an Army, and to practise force, , policy, stratagems, as against an adjudged enemy of his Country and of the Com- , mon-weale. Neither shall the Officers of the Realm in this case fall into the crime , *OF SEDITION*; For in a sedition there must needs be two points, which when

, for the moſt part they contend about contradictories, it followes, that the cauſe of , one is juſt, the other unjuſt; That cauſe muſt verily be juſt which defends the Laws, , which protects the common good, which ſhall preſerve the Realme, eſpecially by , this meanes; contrarily, that cauſe is uniuſt, which violates the Laws, defends the , breakers of the Lawes, protects the ſubverters of the Countrey. * That is iuſt which , will deſtroy tyrannicall government, that uniuſt which would aboliſh iuſt govern- , ment. That lawfull which tends to the publike good, that unlawfull which tends to the , private. Therefore, ſaith *Thomas*, becauſe a tyrannicall kingdome which is not or- , dained to the common good, but principally for the benefit of the Governour, is moſt , uniuſt; therefore the diſturbance of this Kingdome hath not the reaſon of Sedi- , tion, nor doe they fall into the crime of Treaſon. This crime is committed a- , gainſt a lawfull Prince; Now a lawfull Prince is nothing but a living Law: there- , fore he who kils the Law as much as in him lyeth, cannot be called by that name; , therefore thoſe who take up Arms againſt him ſhall not be guilty of that crime. It , is likewiſe committed againſt the Common-wealth, but becauſe the Repub. is there , only where the authority of the Law prevailes, not where the private luſt of a Tyrant , ſwalloweth the Republike, a Tyrant ſhall be guilty of that crime which offends he , publike Maieſty, & thoſe be Vindicators of the Republike, who ſhall oppugne a Ty- , rant *Ex Officio*, ſupported with their own authority. Neither in this caſe, I ſay, doth , every one, but all the Subiects, but the Lords ſeem to require an account of the go- , vernment from their agent: no more ſhall they be accounted perfidious for doing it; , there is every where between the Prince & people a mutuall & reciprocal Obligation; , he promiſeth, that he will be a iuſt Prince: they, that they will obey him, if he ſhall , be ſuch a one. Therefore the people are obliged to the Prince under a condition: , the Prince, purely to the people: Therefore if the condition be not fulfilled, the peo- , ple are unbound, the Contract void, the Obligation null in Law it ſelfe: Therefore, , the King is perfidious if he reign uniuſtly; the people perfidious, if they obey not , him who reignes iuſtly: But the people are free from all crime of perfidiouſneſſe, , if they publikely renounce him who reignes uniuſtly; or if they endeavour to evict , him with Armes who deſires to retein the kingdome unlawfully. Therefore it is , lawfull for all or many of the Officers of the Realme to remove a Tyrant. Neither is , it onely lawfull; but it lyeth ſo upon them of duty, that unleſſe they doe it, they , can no way be excuſed. Neither may Electors, Palatines, Senators, and other No- , bles think, that they were created and inſtituted onely for that end, that they ſhould , ſhew themſelves once peradventure in the Kings inauguration, attired after the an- , cient manner, that they might act a certain palliated Fable, or put on the perſon of , *Rowland*, *Oliver*, *Renald*, and other Nobles on that day, as if in a Scene, they ſhould , in ſome ſhew repreſent the Round Table of *Arthur*, as they call it; ſo as after that , the multitude is diſmiſſed, and *Calliopus* hath ſaid, Farewell, they ſhould think they , had excellently played their parts. Theſe things are not ſpoken in jeſt, theſe things , are not perfunctorily done; theſe things are not the paſtimes of children, who as it , is in *Horace*, created a King in a Play; but rather of Nobles, & Magiſtrates, who as , they are called unto part of that honor, ſo likewiſe of the burthen, and ſhew, that the , Republike is committed and commended to the King, as to the ſupreme and chiefeſt , Tutor, ſo alſo to themas fellow-Tutors (even Honorari) aſſigned to him as obſervers of , his actions who hath the chief tutelage, who may daily exact an account of him, and , diligently

* *Bartolus Tract. de Guelphis & Gibell. Ang. l. 3. §. cum igitur D. de vi & viar. Thom. Aquinas in 2. 2æ qu. 12. Art. 11. in fine l. 1. D. ad leg. Iul. magiſt. Cit. Parid. 4.*

L. 160. D. de reg Iur.

Vlp. l. 3. D. de adm. & peric. Tut. & curat.

'diligently take heed, in what manner he reverſeth; ſo even theſe, that they might
'obſerve the King (who, as to his tutelary providence, is onely reputed in the place
'of a Lord) that he doe nothing to the detriment of the people. Therefore as the
'fact of him who acts the Gardian, is imputed to the Co-gardians, unleſſe where
'they ought and are able, they ſuſpect and likewiſe take care to remove him; to wit,
'when he communicates not the adminiſtration with them, if he doe not faithfull-
'ly manage the tutelage or care, if he admits fraud, if he doth any thing ſordidly
'or perniciouſly to the Pupill, if he intercept any of the Pupils goods, if he be-
'come an enemy to the Pupill; finally, if he be over rude, ſloathfull, unskilfull,
'&c. So even the Nobles ſhall be held guilty of the Princes deed, unleſſe they re-
'move, or prevent his tyranny, or ſupply his ſloathfulneſſe, with their vigilance
'and diligence. Finally, as oft as the Gardian doth not doe in the name of the Pu-
'pill, that which any fit Maſter of a family would doe, he may not ſeeme to be de-
'fended; but that he may be the better defended, his Co-gardians are bound to
'foreſee: So much more juſtly, if the Prince doth not act the houſholder but the
'Enemy, the Nobles may and ought to act againſt him, ſince they are bound by
'his deed, no leſſe then by their owne. Moreover the Nobles may conſider, that
'the King in governing the Republike, holds the firſt part, but they the ſecond,
'third, and every one in his place. Therefore if he doth his part ill, they may not
'follow him: if he deſtroy the Republike, they may not connive; for it is com-
'mitted to them, as well as to him; and in ſuch ſort truly, that not onely they
'themſelves ought rightly to execute their office by themſelves, but to containe the
'Prince within the bounds of his office. Finally, as the King promiſeth, that he
'will take care of the benefit of the Commonweale, ſo alſo doe they. Therefore
'if he breakes his oath, they may not thinke, that they are abſolved from theirs,
'no more then Biſhops, if the Pope ſhould defend hereſie or deſtroy the Church:
'yea, they ſhould thinke themſelves ſo much the more obliged to performe their
'oathes, by how much the more he ſhall violate his. Therefore if they collude, they
'are reputed in the number of prevaricators; if they connive, of deſertors; and
'TRAITORS, if they vindicate not the Republike from the tyranny of tyrants:
'as finally they become Patrons, Defenders, little Kings, if they by all meanes pro-
'teſt and defend the Republike, which they have undertaken to proteſt. Theſe
'things, though they are ſufficiently firme of themſelves, yet they may be demon-
'ſtrated by examples. The Canaanitiſh Kings, who oppreſſed the people of *Iſrael*
'with hard ſervitude, as well corporall as ſpirituall, (interdicting them both
'commerce and armes) were true tyrants, I ſay in practice, yet not without a title;
'for *Eglon* and *Jabin* reigned quietly almoſt twenty years: Now God extraordinari-
'ly ſtirred up *Ehud*, who ſlew *Eglon* craftily; and *Debora*, who routed the army of *Ja-*
'*bin*; and by that meanes freed the people from tyranny: This was not verily, be-
'cauſe it was leſſe lawfull to the ordinary Magiſtrates and Princes of the Tribes, and
'the reſt to doe it, but *Debora* rather objecteth their ſloathfulneſſe and careleſneſſe
'to them, and curſeth ſome of them for this cauſe. But truly God, pittying his
'people, extraordinarily ſupplyed the negligence of ordinary officers. *Rehoboam*
'the ſonne of *Solomon*, refuſeth to eaſe the people of unneceſſary Tributes, being
'intreated to doe it in a generall Aſſembly of all the people, he groweth inſolent,
'and aſſiſted with the counſell of flatterers, even arrogantly threatens more grievous

L. 27. D. eodem.

L. 14. D. de admin. & peric. tut.

L. 3. de ſuſpect. tut. & cur.

L. 10. & 33. D. de admin. & perie. tutor. & Cur.

Judg. 5.

2 Chron. 10. 6 11.

August. l.1.7. de Civit. Dei c.22.

burdens; No man doubts, but that according to the covenant first made betweene the King and people, the Nobles might have restrained this pride: But the sinne was in this, that they did by secession, which was to be done in the Assembly; and did a just and lawfull thing unjustly. Frequent examples of this thing occurre in other Kingdomes: he instanceth in *Tarquin* the proud, expelled by *Brutus* and *Lucretius*; who confiscated his goods, and would have publikely sentenced himselfe, had they apprehended his person, because he consulted not with the Senate as former Kings usually did, because he made warre, peace, and truces at his pleasure without the Senates and peoples advice, violated the Lawes which he should observe, and neglected the covenant established betweene the King and people: in *Nero* the Emperour, publikely sentenced by the Senate, *Vitellius*, *Maximinus*; and

* See *Hotoman. Francogallia. c. 6. to 14.*

the speech of *Trajan* (forecited): Likewise the **French*, by authority of a publike Councell through the care of the Kingdomes officers, expelled *Childericke* the first, *Sigibert*, *Theodoricke*, *Childericke the third*, from the Crowne, for their tyranny, and set up others of another stocke in their places. Yea, for sloathfulnesse, negligence, madnesse, as also for injuries to Forrainers, and yeelding to the impotencie or lust of flatterers, or women, they have deposed some, and as it were taken away the reines from *Phaeton*, lest all men should be burnt with the same fire; as *Theodoricke* for *Ebroines* sake, *Dagobert* of *Plectrude*, and *Theobald* his Mignions, with others; reputing it to be all one, whether a woman or an effeminate Prince reigned; or whether a tyrant, or petite tyrants under a sloathfull Prince domineered: or finally, whether he himselfe were a Devill, or possessed by the Devill himselfe. Thus not long since they compelled *Lewes* the eleventh, a most imperious Prince to receive 36. Governours, by whose counsell he was bound to governe the Republike. Yea, what other right had either the *Carlingi*, adopted into the Kingdome in place of the *Meruingi*; or the *Capets* who at this day hold it, preferred before the *Carlingi* by the Decree of a publike Councell: but from the people, represented as it were in an Epitome, by the Councell of the Realme, which they call an Assembly of the three Estates, who might lawfully of right both depose those, and by their owne authority establish these in the Throne? In the same manner we read *Adolphus* deprived of the *German* Empire, *An.* 1296. because corrupted with money, he had made war with *France*, in favour of the *English*: and *Wenceslaus*, *An.* 1400. although these may be called, not so well evill, as lesse good Princes. Thus in the Realme of *England*, *Edward* the second, for his tyranny to his Subjects, especially the Nobles, whom he destroyed without hearing their cause, was at his Queenes request, adjudged unworthy of his Crowne by the Parliament. Not long since, *Christierne* in *Denmarke*, *Ericus* in *Sweden*, Queene *Mary* very lately in *Scotland*, were deprived: which Histories worthy credit testifie, hath beene frequently done in the Kingdome of *Poland*, *Hungary*, *Spaine*, *Portugall*, *Bohemia*, and the rest. But what concerning the Pope himselfe? The Cardinals, they say, because they have chosen him, or if they doe not their duty, the Patriarks, who are Primates next after the Cardinals, may against his will, for certaine causes call a Councell, and in it judge the Pope, if he shall scandalize the Church by his notorious offences; if he be incorrigible, if reformation be necessary as well in the head as members; if contrary to his Oath he will not assemble a Councell, and the like: and *de facto*, we read that many Popes have beene deposed by authority of a Councell. But if (saith

Froissard. l.1. c.1. & seq. Ant. de But. Consil. quod positum inter Consil. Paul. de Castro vol. Antiqu. nu 412. in cip. Viso puncto. Martini. Laudensis in Tract. de Cardin in 2. qu. 35. Phil. De in: quodam consilio, cujus verba fuerunt Andr. Barbar. in D. cons. 1. l. 2. c. 6. Bald. in l. Olim. col. peri. de referi. in Decretal. Bonifac. 8 de Mai. & obed.

Baldus).

'*Baldus*) they be pertinaciously abused; at first they must use words, secondly, 'herbes, that is, medicines; lastly, stones; and where the truth of vertue sufficeth 'not, there the defence of weapons ought to prevaile. But and if by the suffrages 'almost of all learned men, the Decrees of Councels, and the Acts themselves done, 'it be proved, that a Councell, as they speak, may lawfully depose the Pope, who 'yet boasts himselfe to be the King of Kings, and claimes as much to be above the 'Emperour, as the Sunne is above the Moone; yea, also arrogates to himselfe 'an authority of deposing Kings and Emperours at his pleasure; who at last can 'doubt, but that by the publike Councell of every Realme, not onely a tyrant, but 'a King, pernicious to his Kingdome for his madnesse or folly, may be deposed or 'removed?

'Goe to now, in this our politicke Ship, the Master gluts himselfe with wine; 'most of his assistants either asleepe, or drunke with mutuall cups sportingly behold 'an imminent Rocke. The Ship in the meane time, either holds not that course 'which is expedient for the owner, or seemes speedily to be wracked; what thinkest 'thou is here to be done under the Master, by one who is vigilant and sollicitous? 'Shall he pull those by the eares who are asleepe, or onely jogge them by the sides? 'but in the meane time, lest he should seeme to doe ought without their command, *Plato. l. 8 & 9. de Repub.* 'shall he not afford his helpe and assistance to the indangered Ship? Truly what 'madnesse, or rather impiety will this be? Seeing then (as *Plato* saith) tyranny is 'a certaine phrenzie and drunkennesse, the Prince may utterly subvert the Republike, 'the most of the Nobles may collude, connive, or at least are fast asleepe: the peo- 'ple who are Lords of the Republike, by the fraud or negligence of these ministers, 'which is their fault, are reduced into greatest straights: in the meane time there is 'one of the Nobles which considers the incroaching tyranny, and detests it from 'his soule, what thinkest thou is now to be done against him by this man? Shall he 'onely admonish his Colleagues of their duty, who themselves doe as much hurt 'as they may? But, besides, as it is perillous to admonish, and in that state of things it 'may be deemed a capitall crime, shall he do like those, who contemning other helps, 'casting away their armes, shall cite Lawes, and make an Oration concerning justice 'among theeves, in the midst of a wood? but this truly, is that which is cõmonly said, to *L. 3. & 1 omne delictum. Sect. ult. D. de re milit.* 'be madde with reason: What then? shall he grow deafe at the peoples groanes? 'shall he be silent at the entrance of theeves? or shall he finally grow lasie, and put his 'hands into his bosome? But if the Lawes appoint the punishment of a Traytor 'against one wearing buskins on his legs, who counterfeits sicknesse for fear of the e- 'nemies, what punishment at least shall we decree against him, who either through 'malice, or sloathfulnesse, shall betray those whom he hath undertaken to protect? 'But rather he shall command those things that are needfull to such as are wary by 'a Mariners shout; he shall take care lest the Common-wealth receive any detriment, 'and shall preserve the Kingdome even against the Kings will and resistance, by which 'he himselfe becomes a King; and shall cure the King himselfe as a frantick man, by *C. nullus in Carthagin. Concil. Distinct. Pontificii.* 'binding his hands and feet, if he may not otherwise doe it. For, as we have said, the 'universall government of the Realme is not committed by the people to the King, 'as neither the oversight of the whole Church to the Pope, but to every one of the 'Nobles according to his power. But certainely, because concord proceeds from u- 'nity, that there should be no emulation among Peeres, a King was instituted, who

ſhould hold the ſupreme place in the adminiſtration of the Common-wealth. The King ſwears that he will ſeeke the ſafety of the Realme; the Nobles ſwear every one the ſame by himſelfe: whether therefore the King or moſt of the Nobles neglecting their oath, ſhal either deſtroy the Common weale, or deſert it being in danger, ought the reſt therefore to deſert the Republike, or at leaſt be leſſe bound to defend it, as if they were abſolved from their oath? But rather then eſpecially they ought to ſhew their fidelity, when as others neglect it, eſpecially ſince they were principally inſtituted for that end, like the Ephori; and every thing may then be reputed juſt, when it attaines its end: whether truly if many have promiſed the ſame thing, is the obligation of the one diſſolved by the perjury of the other? whether if many be guilty of the ſame ſinne, are the reſt freed by the fraud of one? Whether, if many Co-gardians ill defend their Pupill, ſhall one good man be leſſe bound with the burthen of the wardſhip through their default? But rather, neither can they avoyd the infamy of perjury, unleſſe they endeavour to ſatisfie their truſt as much as in them lieth; neither can thoſe exempt themſelves from the danger and judgement of a Gardianſhip ill adminiſtred, unleſſe they implead the other Gardians ſuſpected; when as verily one Gardian may not only implead the reſt ſuſpected, and take care of thoſe to be removed, but alſo remove them. Therefore thoſe who have promiſed their aide and aſſiſtance to all the Realme or Empire; ſuch as Earles of the ſtable, Marſhals, Senators, and the reſt; or thoſe who have done it ſpecially to any County or City which may make a part of the Realme; as Dukes, Marqueſſes, Earles, Majors, and the reſt, are bound to aide the whole Common-weale oppreſſed with tyranny, or that part thereof, which the people have committed to them next after the King. And theſe truly ought to vindicate the whoſe Commonweale from tyranny, if they be able; thoſe as Gardians aſſigned through-out Counties, that part of the Realme whoſe defence they have undertaken: Theſe I ſay, are bound to reſtaine a tyrant, thoſe to drive him out of their coaſts. Therefore *Mattathias* as one of the Nobles, the reſt partly conniving, partly colluding; when *Antiochus* tyrannically oppreſſed the Kingdome of *Judah*, ſpeakes thus to the people ready to take up armes: Let us reſtore the ſtate of our people; let us fight for our people, and our holy places: whence it plainely appeares, that we may not onely lawfully fight for Religion, but for our Countrey; for an hearth I ſay, no leſt juſtly then for our Altars, and take up armes againſt ſuch a tyrant as he was: neither are they blamed by any, for recovering the Kingdome, but that they claimed the royall dignity to themſelves, which pertained to the Tribe of *Iudah*. Many pertinent examples to this purpoſe occurre in Hiſtorians. *Arbactus* governor of *Media*, ſlew *Sardanapalus* ſpinning among women, and ſpending the royall treaſure among whores. *Vindex* Preſident of the *French*, and *Galba* of the *Spaniards* revolted from *Nero*, together with all *France* and *Spaine*, the Senate conniving at his tyranny. But eſpecially that *Laconick* judgement is obſervable, which verily proceeding from that Senate, ought to paſſe into a thing adjudged among all Nations. When the *Lacedæmonians* poſſeſſed *Byzantium*, they made *Clearches* Captaine of the Army, Governour of the City, who taking corne from the Citizens, diſtributed it to the forraine ſouldiers; but in the meane time the families of the Citizens periſhed with famine. *Anexilaus* therefore, one of the Magiſtrates of the City, moved with that tyranny, agreed with *Alcibiades* about the yeelding up of his

L. 3. D. de admiſt. & peric. tutor. & cur. l. 3. D. deſuſpect. tut. & curat.

Macab. lib. 1. c. 3. v. 45.

Iuſtin. l. 1. Diodor. l. 2. c. 37.

'his Countrey to him, and he soone after is received into the City. *Anexilaus* being 'accused at *Sparta* for yeelding up of *Byzantium*, pleaded his cause himselfe, the 'Spartanes absolved the man; because they said, warres were to be waged with ene- 'mies, not with the nature of things; now nothing is more repugnant to nature, 'then, if those who are bound to defend a City, became more unjust then the ene- 'mies. Thus the *Lacedæmonians* determined justly, to whom scarce any good Kings 'will not assent; verily those who desire to rule well, care not at all what is deter- 'mined concerning tyrants, or what the Nobles or people themselves may doe by 'Law. But we must yet proceed further. Every one of the Mariners is bound, if the 'Ship be endangered through the default or negligence of the Ship-master, to put to 'his helping hand: every one of the Nobles is bound, if the Republike perish by the 'wickednesse or carelesnesse of the Prince and his Colleagues, to helpe it, being 'like to fall, and to vindicate the whole Kingdome, or at least that part thereof 'which is committed to him, from tyranny. But then shall it be lawfull for every 'ordinary slave to doe the like? or peradventure shall it be lawfull to *Herdonius Sa- 'binus*, *Euno Surianus*, *Spartacus* the fencer, or, I say, to any private man to enfran- 'chise servants, to stirre up Subjects to armes, finally to combate with the Prince, 'if tyranny urge them? No verily. The republike is not committed to single or 'private men, yea they themselves are committed to the care of the Nobles and Ma- 'gistrates no otherwise then Pupils. Therefore they are not bound to defend the Re- 'publike, who cannot defend themselves. The sword is not committed to every man 'neither by God, nor by the people; therefore if they draw the sword without 'command, they are seditious, although the cause may seeme to be just. Finally, 'private men doe not make the Prince, but all. Therefore they ought to expect the 'command of all, or of those, I say, who represent all in a Realme, Countrey or 'City, which may make a part of the Realme, or at least of one of them, before 'they attempt any thing against the Prince. For as a Pupill cannot bring an action 'without authority of his Tutor, although the Pupill be truly a Lord, and the 'Tutor onely is reputed for the Lord, as farre forth as appertaines to his tutelary 'providence: So neither may the people doe ought, but by the authority of those, 'on whom they have transferred their authority and power; whether they be or- 'dinary Magistrates, or extraordinarily, created in a publike Assembly; whom, I 'say, they have guirded with the sword for this purpose, to whom they have de- 'livered themselves up to be governed and cared for; who finally like that Pretor 'of *Rome*, who judged betweene servants and masters, are truly constituted in that 'place, that if any contention arise betweene King and Subjects, they may shew 'themselves Judges and Redressors, lest the Subjects themselves should pronounce 'sentence in their owne cause. Therefore if unjust customes or grievous taxes be 'imposed, if things be done against pacts or fraudulently, and yet not one of the 'Nobles speakes against or resists it, let them thinke they must then sit still, and 'thinke, that the best Physitians to prevent or take away a disease, doe oft-times 'prescribe the opening of a veine, the evacuation of humours, yea and scarifica- 'tion. For such is the nature of things, that scarce any mischiefe can be cured 'without another; scarce any good may be acquired without diligent labour. They 'have the example of the people under *Solomon*, who refused not the grievous tri- 'butes imposed on them for the building of the Temple, and fortifying the King- 'dome,

L. 1. c. de Seditiosis.

L. 11. 9. D. de auctor. & consil. tutor. & curat.

Seneca l. 8. de Benefic.

c dome; becauſe they judged thoſe things to be impoſed by the publike Councell,
c to the glory of God, the beauty and ornament of the Republike. They have like-
c wiſe the example of Chriſt our Saviour, who although he were the King of Kings,
c yet becauſe he then ſuſtained a private perſon, he payed tribute willingly. If the
John 34. v. 30. c Nobles and Magiſtrates themſelves favour apparent tyranny, or at leaſt oppoſe it
c not, they may remember, that for the ſinnes of the people, God ſuffers Hypocrites
c to reigne; whom, unleſſe they turne themſelves to God with all their heart, cannot
c be overturned with any engines. Therefore there is no need of feet or hands,
c but bended knees. Finally, they muſt ſuffer evill Princes, wiſh for better, and
c thinke, they muſt beare that tyranny with a patient minde as they doe haile,
c ſtormes, tempeſts, and other naturall calamities, or change their habitations. *Da-*
c *vid* retired into the Mountaines, and ſpared *Saul* a tyrant, becauſe he was none of
c the Nobles of the people: Chriſt, becauſe he was not of this world fled into *Egypt*,
c to avoyd *Herods* tyranny. *Paul*, becauſe he deſcribes the office of private Chriſti-
c ans, not of Magiſtrates, teacheth that they muſt obey *Nero* himſelfe. But if all the
c Nobles, or moſt of them, or at leaſt one of them endeavour to reſtraine apparent
c tyranny, or the Magiſtrate to drive it from that part of the Realme which is
c committed to him, if he be ſuch a one, as under pretext of expelling it, may not
c introduce another tyranny; then verily aſſembling together, they may run who
c ſhall goe faſteſt to this choyce man, they may earneſtly aſſiſt with their feete and
c hands, and as if God himſelfe had given a ſigne from Heaven, of a fight againſt
c tyrants, endeavour to free the Kingdome from tyranny. For as God puniſheth
Eccleſ. 10. c and chaſtiſeth the people by tyrants, ſo likewiſe tyrants by the people: and that
c is a perpetuall truth which *Syrach* ſaith; that Kingdomes are tranſlated from Na-
c tion to Nation, for the iniquities, injuries, and wickedneſſe of Princes; and that
c every tyranny continues but a ſhort ſpace. Thus the Captaines and ſouldiers care-
c fully executed all the commands of *Iehojada* the High Prieſt, in revenging the ty-
c ranny of Queene *Athaliah*: Thus all the godly men of *Iſrael* went to the *Macca-*
c *bees*, partly that they might defend the true worſhip of God, partly that they
c might free the Republike againſt the impious and unjuſt attempts of *Antiochus*;
c yea God favoured their juſt endeavours, and gave them proſperous ſucceſſe. What
c then? May not God likewiſe out of private men themſelves raiſe up ſome aven-
c ger of tyranny? Cannot the very ſame who raiſeth up tyrants out of the people,
c backed with no title, no pretext, to puniſh the people, likewiſe raiſe up deliverers
c alſo out of the loweſt of the people? Cannot the ſame who enthralled the people
c to *Jabin* and *Eglon*, deliver the ſame people by *Ehud*, *Barac*, *Deborah*, and as it
c were manumit them when they were deſerted by the Nobles? What therefore
c ſhould now hinder, thou wilt ſay, but that the ſame God who hath ſent Tyrants
c on us at this time, ſhould likewiſe extraordinarily ſend revengers of tyrants?
c Why, if *Ahab* rageth againſt good men, if *Jezabel* ſuborne falſe witneſſes againſt
c *Naboth*, ſhall not there be alſo a *Iehu*, which may extirpate the family of *Ahab*,
c who may avenge the bloud of *Naboth*, who may caſt downe *Iezabel* to be torne
c in peeces of Dogges? Verily, what I have anſwered before, as nothing hath de-
c parted from the juſtice of God at any time, ſo not from his mercy. But yet
c ſince thoſe evident ſignes, by which God was wont to confirme theſe extraordina-
c ry vocations of thoſe Worthies, are for the moſt part wanting to us in this age,

c let

'let the people take heed, leſt whiles they ſeeke to paſſe over Sea with a drie **foote**, 'ſome Impoſtor being their Captaine, they fall not headlong into a gulfe, **which** 'we read ſometimes to have hapned to the Jewes: leſt whiles they ſeeke a **reven-** 'ger of tyranny, they perchance follow one, who, that tyrant being expelled, 'will tranſlate the tyranny it ſelfe unto himſelfe: leſt finally whiles they ſeeke to 'deſerve well of the Common-wealth, they militate to the private luſt of any; ſo as 'that may fall out which hath hapned to many Republikes, eſpecially the *Italian*, 'whiles that they endeavour to remove the preſent evill, they bring in a farre greater. I ſhall cloſe up this with three Authorities more; the firſt, of Mr. *John Calvin*, who pleads as much for obedience to Tyrants and unjuſt Magiſtrates as any man: *Inſtit. lib.* 4. *c.* 20. *ſect.* 31. *I alwayes ſpeake of private men*: For *if there be any popular Magiſtrates conſtituted to moderate the luſt of Kings* (*ſuch as heretofore were the Ephori, who were oppoſed to the Lacedæmonian Kings, or Tribunes of the people againſt the Roman Senate, or the Demarchi againſt the Athenian Senate, and which power peradventure, as now things ſtand,* **The three Eſtates in all Kingdomes enjoy, when they aſſemble**) *I am ſo farre from inhibiting them* **to withſtand the raging licentiouſneſſe of Kings, according to their duty**: *that if they connive at Kings outragiouſly encroaching upon, and inſulting over the inferiour common people, I ſhall affirme,* **that their diſſimulation wants not nefarious perfidiouſneſſe, becauſe they fraudulently betray the liberty of the people of which they know themſelves ordained protectors by Gods ordinance.** The ſecond is, *Huldericus Zuinglius*: *Explanatio Artic.* 42. *Quando vero perfide & extra Regulam Chriſti* (*Principes*) *egerint, poſſint cum Deo deponi, conſenſu & ſuffragiis totius, aut certe potioris partis multitudinis. Quæris quando id fiet, ut major pars populi bono conſentiat? Ad hoc dico quod antea; ſi non conſentiunt ut malum tollant, ferant jugum Tyranni, & demum cum eo pereant. Nec querantur ſibi fieri injuriam, cum ſua culpa id mereantur ut quidvis patiantur. Quis ergo miretur ſi populus ob flagitia & ſcelera Principum pœnas luat? Primum, cur non juxta naturæ regulam cum proximo agimus? Sic enim omnes fratres eſſemus, & Principe nullo eſſet opus. Deinde, cur non ſummo ſtudio juſtitiam ſectamur, & exoſam habemus injuſtitiam omnes? Sic enim facile fieret ut unanimi conſenſu tyrannum officio moveremus. Nunc cum tam tepidi ſumus in tuenda juſtitia publica, ſinimus ut impune vitia Tyrannorum hodie regnent. Merito ergo ab illis conterimur, & tandem cum illis luimus. Non ergo deſunt viæ per quas tyranni tollantur, ſed deeſt publica juſtitia. Cavete vobis, O Tyranni, Evangelium enim Jeſu Chriſti late ſparſum vitam multorum innovabit ut innocentiæ & juſtitiæ plurimi ſudeant, cui & ſi vos ſtuderitis, ſummo honore vos proſequantur, ſin furere & vim facere perrexeritis, omnium pedibus conculcabimini.* So he

The laſt is the generall Union of the States of the united Provinces, to defend their Liberties and Religion, made at *Bruſſels*, the tenth of *January* 1577. thus related by *Grimſton* in his Hiſtory of the *Netherlands l.* 10. *p.* 492. 493.

The States ſeeing themſelves ingaged in warre on all ſides againſt the Spaniards, (who were proclaimed enemies to the Countrey) fearing ſome diſ-union amongſt themſelves, by the inticing perſwaſions of ſuch as ſought to diſmember them, they reſolved, before that *Don John* ſhould enter into the Countrey, to make a generall union among themſelves, as well Prelates, Noblemen, and Townes, as of others of the ſeventeene Provinces: which was allowed by the Lords of the Councell of State, deputed by the King, for the government generall of the ſaid Countries; whereof,

the

the Originall remaines in the custody of the States of Brabant. Of which Union, the Tenor followeth.

A generall Union of the States.

'WE who have signed these presents; Prelates, Church-men, Noblemen, 'Gentlemen, Magistrates of the King, Townes, Castles, and others, ma-'king and representing the States of the seventeene Provinces, being presently as-'sembled in this Towne of Brussels, and others, being under the obedience of the 'most high, mighty, and famous Prince, King *Philip*, our Soveraigne Lord and na-'turall Prince; we give all men to understand, both present and to come, That see-'ing our common Countrey afflicted by a more then barbarous and tyrannous op-'pression of Spaniards, we have beene forced and moved to unite our selves toge-'ther, and with Armes, Counsell, Men, and Money, to assist one another against 'the said Spaniards, and their adherents; being declared Rebels to his Majesty, and 'our enemies. And that this union and conjunction hath beene since confirmed by 'the Pacification last made; and all by the authority and consent of the Councell 'of State, committed by his Majesty for the generall government of the said Coun-'tries: And as the pretended end of this Union requires all fidelity, constancie, and 'naturall assistance for ever; and that we would not by any misprision have cause 'of jealousie or mistrust, and much lesse of any bad affection or disposition of any 'of us; but contrariwise, to have the affaires of the said Union effected with all the 'sincerity, fidelity, and diligence that may be, so as not any of the subjects and in-'habitants of the said Countries and Province may have any just cause to be discon-'tented, or to doubt of us:

'For these considerations and reasons, and that nothing may be treacherously 'done, to the prejudice of our common Countrey, and just defence; or that omit-'ted by negligence, which shall be necessary for our just and lawfull defence; We 'have by vertue of our power and commission respectively, and otherwise for us and 'our successors, promised and doe promise, by the faith of Christians, of honest 'men and true Countrey-men, to keepe and entertaine inviolably for ever the said 'Union and Association; so as not any one of us may breake or fall from it, by 'dissimulation, secret intelligence, or in any sort whatsoever. And that for the pre-'servation of our holy, Catholike, and Romish Faith, and the accomplishment of 'the Pacification, as also for the expulsion of Spaniards and their adherents (with 'all due obedience to his Majesty) for the good and quiet of our Countrey, and 'the maintenance of our Priviledges, rights, Freedomes, Statutes, Customes, and 'antient uses: For the effecting whereof, we will use all meanes possible; imploying 'both Money, Men, Counsell, and goods, yea and our lives, if it were necessary. 'And that none of us may in private give any counsell, advice, or consent, nor have 'any secret conference with them that are not of this Union, nor yet reveale unto 'them in any sort what hath or shall be treated of in this Assembly, or resolved; but 'shall wholly conforme himselfe according to our generall and common reso-'lution.

'And in case, that any Province, Estate, Countrey, Towne, Castle, or House, 'were besieged, assaulted, invaded, or oppreit in any sort whatsoever: yea, if any of

'of us, or any others (having indeavoured himselfe for his Countrey and the just 'defence thereof, against the Spaniards, or for other causes depending thereon, as 'well in generall as particular) should be sought after, imprisoned, ransomed, mo- 'lested, or disquieted in his person, and goods, honour, and estate, or otherwise; 'we promise to give him assistance by all the said meanes; yea, and to procure the 'liberty of them that shall be imprisoned, either by force, or otherwayes; upon 'paine to be degraded of their Nobility, Name, Armes, and Honour, and to be held 'perjured, disloyall, and enemies to our Countrey, before God and men, and to in- 'curre the note of Infamy and cowardise for ever. And for the strengthening of 'this our holy Union of Association, we have signed these presents the tenth of 'January, 1577.

'Underneath were the signatures of the Deputies of every Province, Prelates, No- 'blemen, and Commissioners for Townes; and underneath them, was written the 'agreation of the Councell of State, as followeth: The Deputies of the generall 'Estates here under-written, having required them of the Councell of State, com- 'mitted by his Majesty for the government of the Netherlands, to consent unto and 'allow of that which is contained in the Union above written: The Councell, in 'regard of the said request, and the reasons therein contained, have as much as in 'them lay, allowed, and doe allow by these presents, the said Union, according to 'the forme and tenor. Made at *Brussels* in the State-house, in the Assembly of the 'said States, the tenth of *January*, 1577. And underneath was written:

By the commandement of the Lords of the Councell of State:

Signed; *Berrii.*

If any shall here object; that (*a*) Kings are of divine institution; whence, *Dei gratia*, (By the grace of God) is peculiarly *annexed to their Titles*; and not communicated unto Subjects. Therefore though they prove never so flagitious or tyrannicall, they may in no wise be forcibly resisted, or questioned by their Nobles and Parliaments for their crimes.

Object. 1.

(*a*) *Christianus in confutat. Burg. Rebuffus ad constit. Reg. Tom. 2. & Empire. art. 2. Bodin. de repub. l. 1. c. 10.*

I answer briefely (because I have (*b*) elswhere largely dissipated this objection) First, that Kings are no more of divine institution, then any other inferiour Magistrates, Officers, or Princes whatsoever; as the (*c*) *Scriptures* abundantly evidence. But all other inferiour Magistrates, Officers, and Princes whatsoever are resistible, questionable, censurable, and deposible for their tyranny, wickednesse, and misgovernment by the Parliaments censure, as I (*d*) have proved, notwithstanding their divine institution; therefore such degenerating Kings too, as well as they in such cases.

(*b*) *Part. 3. p. 115. to 125.*

(*c*) *Rom. 13. 1, 2, 3, 4, 5, 6. Prov. 8. 15. 16.*

(*d*) *Part 2. p. 44. 45.*

Secondly, all (*e*) *Ministers of the Gospel, are as much, (if not farr more) Jure divino, and by Gods owne ordination*, as Kings are; a truth undeniable. But they for their offences and misdemeanors contrary to their function, may be both forcibly resisted, censured, deprived, degraded, yea and executed, notwithstanding their divine right and institution; as the Canons of most Councels, the practise of all ages, yea, the expresse letter of the 26. *Article of the Church of England*, with all our Episcopall Canons and Canonists attest: Therefore tyrannicall degenerating Kings may be so too, by the selfe-same reason, in some cases.

(*e*) *Eph. 4. 11. 1 Cor. 12. 28. c. 4. 1. 2 Cor. 3. 6. c. 11. 23. 2 Tim. 4. 6.*

Ccc Thirdly,

Thirdly, this Title of *Dei gratia, in publike Writs, anciently hath beene, and yet is common to Bishops, Prelates, inferiour Magistrates and Subjects, as well as to Kings; as sundry precedents* (f) *in our Law bookes,* (g) *Matthew Paris,* (h) *Salon,* with others attest, and Mr. *John Selden* in his Titles of Honour, *part.* 1. *chap.* 7. *Sect.* 2. *p.* 123. professedly proves at large, to whom I shall referre you: But these both lawfully may be, and alwayes have beene forcibly resisted, questioned, convented, deprived, censured for their tyranny and misdemeanors, notwithstanding this their stile of *Dei gratia*, or pretence of divine institution: yea, we know that Bishops have beene lately thrust out of many Churches, notwithstanding their long pretended *Ius Divinum* to support their Hierarchy; and *Iohn Gerson* a Papist, hath writ a particular Treatise *De Auferibilitate Papæ*, notwithstanding the Popes pretended Divine Title to his Monarchy, which may be now, and one day shall be totally abolished. Therefore tyrannicall degenerous Kings, may be justly resisted, censured, deprived, as well as they, and royalties changed into other governments, by the peoples and kingdomes common consents, if they see just cause.

(f) *Registr. pars* 2. *f.* 3. 23. 60 62. 303. 7. 31. 33. 35. 38. 44. 54. 55. *Pars* 1. 286. 302, 303. 305. 306, 307. *Pars* 3. *f.* 5. 22. 26. 29 31. 35. 42. 47. *Fitz. Nat. Bre.* 132.

(g) *Willielmus Dei* GRATIA *Eliensis Episc. &c. Matthæus Pars. p.* 155.

(h) *Proæm. Relect. in leg. Taurin.* 36. *Object.* 2. * See Mr. *Seldens* Titles of Honour, *part.* 1. *c.* 8. *sect.* 1.

If any secondly object: * *That Kings are annoynted at their Coronation*; Therefore their persons are sacred, irresistible, unquestionable, unpunishable, for any tyrannicall or exorbitant actions whatsoever.

I briefely answer: first, that every Christians Baptisme, (being a Sacrament of Christs owne institution) at least his spirituall unction and sanctification, (as I have (i) formerly proved) makes a person as sacred, yea more holy, then Kings annoynting (being no Sacrament) can, or doth of it selfe make the person of any King whatsoever. A truth which no Christian can without blasphemy deny. But Baptisme, and the inward unction of the spirit of grace and sanctification, exempts no Christians from resistance, censure, punishments of all sorts, in case they commit any exorbitant or capitall crimes; as experience tels us: Therefore Kings Coronation annoyntings cannot doe it.

(i) *Part.* 3. *p.* 89. to 94.

Secondly, (k) Priests *anciently were and at this day too in the Roman Church, are annoynted as well as Kings*; and so are *children and sicke persons (that I say not Altars, Bels, &c.) with Chrisme and extreame Unction*: But these Unctions conferre no such immunity to Priests, children, sicke men, others, &c. Therefore neither can this annoynting doe it to Kings, especially now, being no divine institution.

(k) *Part.* 3. *p.* 92. 93. *Petrus Cunæus de Republ. Hebræ l.* 1. *c.* 14. *Pontif. & Ceremoniale Romanum.*

Thirdly, The annoynting of Kings, is not common to all Christian Kings (many of them especially in former times, having beene crowned without any annoynting at all) but peculiar to Emperours, and to the Kings of *Ierusalem, France, England*, and *Sicily, the foure annoynted Kings, onely*, as (l) *Albericus*, (m) *Restaurus Castaldus*, (n) *Antonius Corsetus*, (o) *Azorius*, (p) *Cassanæus, and* (q) *sundry others affirme*, out of the old *Roman Provinciall*: though some other Kings have now and then beene annoynted when they were crowned, as Mr. *Selden* proves. Since therefore all Kings persons are reputed sacred, as well as these foure who are annoynted; and these Kings as soone as the Crowne descended to them, even before their Unctions and Coronations were deemed as sacred and inviolable as before; it is certaine, that their very enoyling of it selfe makes no addition to their personall immunities from just resistance, publike censures, or deprivations for grosse unsufferable publike crimes.

(l) *Ad Tit. de Stat Hom. l.* 1.

(m) *De Imp qu.* 18. & 19.

(n) *De Potest. Regia. part.* 4. *Sect.* 16.

(o) *Moral. Iustit pars* 2. *l.* 10 *c.* 5.

(p) *Catalogus Gloriæ mundi, p.* 5. *Consid.* 35.

(q) See Mr. *Seldens* Titles of Honour, *part.* 1. *c.* 8. *sect.* 1.

Fourthly, the annoynting of Christian Emperours and Kings is not very ancient;

Charles the great being the first annoynted Emperour if we (*t*) beleeve Mr. *Selden*. The first annoynted King in *France*, was *Pipin* about the yeare 750. the annoynting of their (*v*) *Clovis the first*, about the yeare 500. with *that holy Vial of never-decaying Oyle* (*reserved at* Rheimes *to annoynt their Kings*) *which they say a Dove brought downe from Heaven to annoynt him with*, (a ridiculous Monkish fable, much insisted on by (*x*) *Bochellus* and other *French-men*, who relate the grand solemnity used in the carrying and recarrying of this *fabulous Vial, at the French Kings Coronations*) *being not at his Coronation, as many fondly mistake*, but *onely at his baptisme*, as Mr. *Selden* manifests by pregnant authorities; The annoynting of Kings is farre more ancient in *England* then in any other Realme, (*y*) as Mr. *Selden* notes out of *Gildas*; yet *Egfert* is the first of whose annoynting there is any intimation in our Histories, about the yeare 790. To adde to the holinesse of which ceremony, some of our (*z*) *Monkes* in latter ages have forged a Legend (*as good as that of the holy Vial at* Rheimes) *that the Virgin* Mary *gave to* Thomas Becket, *Archbishop of* Canterbury (*during his exile under* Henry *the second*) *a golden Eagle full of precious Oyle, inclosed in a stone vessell, commanding him to preserve it: foretelling him, that the Kings of* England *annoynted with this Oyle, should be Champions of the Church, and bountifull, and victorious as long as they had this Eagle, & oyle.* How late the Unction of Kings began in other Realmes, you may read at large in (*a*) Mr. *Selden*; and how the later Kings of *Judah* were annoynted, and with what unguent or Oyle, the curious may read at leisure in (*b*) *Cunæus*. This annoynting therefore of Kings being not of divine institution, of such puny date in most Realmes, and no wayes necessary nor essentiall to the constitution or Inauguration of any Christian King; can adde no immunity, or priviledge at all to the persons of Kings, much lesse exempt them from all forcible resistance, just censures, or deprivation it selfe, if there be just and reall cause to proceed criminally against them in case of incorrigibility, as I have elsewhere more fully demonstrated, and therefore shall no further expatiate in this particular here: onely I shall conclude with one notable History which proves it.

(*t*) Titles of Honour. *part.* 1. *c.* 8. *Sect.* 1.
(*v*) See *Selden, Ibid. p.* 148. 149.
(*x*) *Decreta Eccles. Gal. lib* 5. *Tit.* 2. *c.* 1. 2, 3, 4, 5, 6. Mr. *Selden Ibid. p.* 148. 149.
(*y*) *Ibid p.* 149 150, 151, 152.
(*z*) Tho. Wallingham. *in Initio, H.* 4 See *Selden. Ibid. p.* 153.

(*a*) Titles of Honour, *part.* 1 *c.* 8 *Sect.* 11.
(*b*) *De Republ. Hebræ. l.* 1. *c.* 14

I read in * *Gulielmus Neubrigensis*; *that for an hundred yeares space and more, though there were a numerous succession of Kings in* Norway, *yet none of them ended his life by o'd age or sickenesse, but all of them perished by the sword, leaving the soveraigne power of the Realme to their murderers, as to their lawfull successors, so as to all those who are knowen to have reigned there for so long a time, that which is written might seeme to have reference; Hast thou slaine, and also taken possession? The Nobles of this Land out of a pious endeavour, desirous to heale this infamous mischiefe, obteining now the vigour of a Law as it were through long custome, decreed, That the new King should be* **solemnly annoynted with a mysticall unction, and crowned,** *so as no man should dare from thenceforth* **to lay hands on the Lords annoynted**: *For till that time none in that Nation hath ever beene consecrated King after an Ecclesiasticall manner, but whosoever had Tyrannically slaine a King, put on the person and power of a King thereby, and left the same likewise after a little fortune to his murtherer, by a Law of inveterate custome, which verily, out of a certaine* **Christian simplicity,** *was thought by many to have beene therefore so frequently done,* **because none of the former Kings** *had deserved to be initiated* **with the solemnitie of a Royall Unction.** *Therefore* Haco *being slaine who had succeeded King* Inge *slaine by him, when the succession of the Crowne seemed to belong to one* Magnus *a child, Nephew to* Inge, *the Wisemen and Nobles of the Realme by a common De-*

* *Rerum Anglicarum, l.* 3. *c.* 6. See *Saxo grammaticus Dan. Hist. l.* 8. *p.* 140

cree, caused the said child to be solemnly consecrated **to be the Lords annoynted**, *and crowned with a Diadem. By which deed they thought that they had a Prince made sacred to them, and that the disgrace of the ancient custome was thereby abolished. But when* Magnus *had reigned some few yeares in great prowesse and happinesse, a most infamous Priest* Suerus, *surnamed* Birkebain, *usurped a Tyranny, twice defeated* Magnus *by warlike stratagems, and at last utterly routed and slew him in battell; (notwithstanding his annoynting) and usurping the Crowne, renounced his holy orders, married a wife, and would have beene crowned by the Archbishop of that Land; but he being a great man, would neither be moved with prayers nor threats,* **to annoynt an execrable head with sacred Unction,** *for which he was banished the Countrey: at last after two great victories against two competitors who were slaine,* Suerus *obtained the Royall Crowne,* **with mysticall Unction,** *by the hands of a certaine Bishop compelled thereunto under paine of death, as it were secure by his frequent successes, from the uncertaine end of a long prospering tyranny, &c.* By which History it is evident, that it is but a childish simplicity to beleeve, that the ceremony of annoynting Kings can of it selfe make Kings persons *sacro-sanct*, or preserve them from violence or assassinations, since it no way prevented this mischiefe in this Realme, (nor yet in any other) the very first King for whose personall safety this ceremony of annoynting and crowning was introduced among the *Norwegians* and *Danes*, being not long after slaine by his Subjects and competitor in battell.

I shall close up this with the notable sentence of deprivation solemnly given and executed against *Wenceslaus* the Emperour, notwithstanding his annoynting.

E Chronico Jacobi Congshunti, & Germaniæ Historicorum. Tom. 2. p. 180, 181, 182.

The sentence of Degradation and Deprivation of the Emperour *Wenceslaus* King of *Romans*, pronounced by the Electors of the Empire in the yeare of our Lord. 1400.

IN the name of God Amen: We John *by the grace of God,* Archbishop *of the Church of* Mentz, *Arch-chancellor of the sacred* Roman Empire *throughout* Germany, *make knowne to all men present and to come. What various, manifold, and grievous, as well incommodities as discords, have for many yeares since beene brought into the holy Church continuing even to this present, and daily sprouting up more abundantly to the most grievous convulsion, imminution, and dissipation of the sacred* Roman Empire, *(which ought to be a Garrison to the Church of God and the Christian world) as they cannot be all written, so the mischiefes daily increasing do manifestly enough teach and confirme. And for this cause the Lords Electors of the sacred Roman Empire, the ardent petitions of the holy Church, Princes, Nobles, Cities, Provinces, and Subjects of the sacred Empire, intreating, desiring a prudent Moderator, have long agone very often and seriously, together with us admonished the most illustrious Prince Lord* Wenceslaus *King of* Bohemia, *both by their owne and their friends labour, and finally by letters; and have diligently set before his eyes, privately and publikely, his unbeseeming and detestable manners and actions in governing, as also the defects, incommodities and discords of the said Church and Christian world, likewise the most grievous avulsions and diminutions of the members of the sacred Empire, hurtfully done, and permitted to be done, against the dignity of his name: to wit, that he hath not promoted peace in the Church, although the great necessity of the Christian world, as likewise his*

offices

office of Advocate and Defendor of the Church, earnestly required it, and he hath also beene frequently desired, required, and admonished to doe it: he notwithstanding perniciously mutilated the Empire, and permitted it to be maimed in some members. In the number whereof are Millain, *and the Province of* Lombardy, *which were of the right of the same Roman Empire, most ample emoluments returning thence to the Empire: in which Dominion the* Millainer, *like a Minister, enjoyed it as a part of the Roman Empire; when as He, contrary to that which became his sublimity and dignity, receiving money, created a Duke of* Millain, *and an Earle of* Papia. *Moreover, he hath alienated divers Cities and Lands belonging to the Empire, as well in* Germany *as in* Italy, *some whereof had returned to the same, having little consideration, that he ought to retaine them with the sacred Empire.*

Moreover, he hath sold for money to his friends, very many naked and unwritten Parchments, ratified notwithstanding with the Seale of his Majesty; wherein it was lawfull both for them and others into whose hands these Parchments came, to write what things they pleased under the royall Seale. Out of which thing, for the hurtfull diminution and dissipation of the rights and emoluments of the sacred Roman Empire, great complaints are risen up. Moreover he never had any care of the controversies and warres, which (alas for griefe!) have miserably afflicted and ruined Germany, *and other lands of the sacred Empire. Hence spoylings, burnings, and robberies have sprung up, with such lamentable encreases even at this day, that none, neither Clarks nor Laicks, neither husbandmen nor Merchants, neither men nor women, whether by land or sea, may converse in safety. Temples, Monasteries, and religious houses, which the sacred Empire ought with its hand to assist and defend, are exposed to rapines, and burnings, and reduced to destruction. Things are gone to this passe, that every one might have handled, and may even now handle another at his pleasure, against the reason of right and equity, without any feare of the sacred, and long despised Imperiall authority, so as even the place of conventing any one, where the defence and patronage of right may be undertaken in the name of the Empire, is altogether unknowne. Finally, which is horrible and dreadfull to be spoken, both with his owne hand, and the hand of other wicked instruments he hath with him, he hath put to death, drowned in the waters, burned in the fire, miserably and cruelly destroyed, the reverend Bishops of holy things, Priests, and spirituall Pastors, likewise many other men of honest note, against the rule of right, otherwise then became the King of Romans. Which mentioned things verily, and many other grievous wickednesses and dammages are so divulged and openly knowne, that they can be no wayes excused or concealed. Therefore we, as we have fore-written, have frequently very earnestly beseeched, admonished, and required him, that renouncing this unbeseeming kind of life, he would take the study and labour to himselfe, whereby he might recover to the holy Church, oft-times imploring his aide, as King of* Romans, *and her Advocate, peace and tranquillity, and to the sacred Empire, its prestine honours, Dominions, and finally its emoluments; to the assistance and consolation of the Christian world, grievously debilitated and oppressed in this regard.*

Now albeit we have most clearely explicated to the foresaid Lord Wenceslaus, *and exhibited to him in writing, these and other more grievous defects, concerning him as King of Romans, and the Empire; yet having heard his answers, and having reiterated our serious exhortations, moreover having communicated the businesse to the sacred Roman See, we have never as yet found him, to have amended his manners as became a King of Romans; namely to recover peace to the Church, principally necessary to the Christian world; also to the sacred Empire, its dignities, lands, and Dominions: a thing which it most ne-*

toriously knowne throughout all the Provinces of the Empire.

Therefore because we could no longer neither conceale, nor endure the remembred and many other defects, touching the sacred Church and Empire, with grievous losse and mourning; by reason of the instant petitions of the persons aforesaid, but especially by reason of the Oath wherewith we are obliged to the same, as the next superiour members of the sacred Empire; therefore as of bounden duty, we were to advise and endeavour how the sacred Empire might be more rightly and wholesomly provided for, (by whose madde and negligent administration those inconveniences have crept in) to the safegard and consolation of the Christian world. And verily as He in obeying us, had performed an acceptable thing, so we have sufficiently and seriously called and cited him, so as wee have signified to him; that unlesse he should be present at the place and day appointed, it would come to passe, that both in respect of the petitions exhibited to us, as likewise in respect of our Oath, we should be compelled to take and enter into such counsels, whereby the sacred Empire might be better setled: most clearely attesting it in our letters. For this purpose we appeared at the place and time prescribed, together with our Coelectors sufficiently summoned, also with the other Princes and of the sacred Empire, expecting from day to day, whether the foresaid Lord Wenceslaus would appeare, to apply a remedy to the foresaid diseases, and from thenceforth more rightly to consult about the affaires of the sacred Empire. But he neither vouchsafed to appeare, nor yet to send any one to us in the name of a Proctor. Wherefore when as by reason of so many pregnant and pernicious defects, we had admonished and reproved him very often in private and in friendly manner, but after that, when we could doe no good, before the Princes and Nobles, and Cities of the Empire, in divers Assemblies, not without great and grievous expences, yet without any fruit; therefore we referred all the fore-mentioned things to the sacred Roman Sea. But when as neither then, he no whit regarded all those things, we could conjecture nothing else from thence, but that he had laid downe the care both of the Church and Christian world, but especially of the sacred Empire. Therefore resolving, that this mischiefe, destructive to the whole Christian Republike, was by no meanes to be any longer borne and tolerated, with a minde well confirmed, after many and various debates and consultations, both betweene our selves, as also with other Princes and Nobles of the sacred Empire, seriously had, for the safety of the Church, the consolation of the Christian world, the honour and profit of the sacred Empire, we have thought meet, that the foresaid Lord Wenceslaus, should at this time be wholly removed from the Roman sacred Empire and all its dignity, as one that is negligent and a destroyer of the Empire, and unworthy of it.

Therefore we John, *Archbish.* in the name of the foresaid Lords Coelectors of the sacred Empire, and our owne, moved both with the commemorated, as also with many other notable defects and causes, by this our sentence, which we give and pronounce by this our present writing, DEPRIVE and REMOVE the foresaid Lord Wenceslaus, as an unprofitable, negligent waster, and unworthy Defender of the sacred Empire, from the foresaid Roman Empire, and from all his degree, dignity, and Dominions appertaining to the same: denouncing to all the Princes, Nobles, Knights, Gentlemen, Cities, Provinces and Subjects of the sacred Roman Empire, that they are altogether free from all homage and Oath made to the person of Wenceslaus in the name of the Empire: requiring and admonishing them under the faith of the Oath, wherewith they are obliged to the sacred Empire, that they doe not henceforth, obey, and submit to the said Lord Wenceslaus, as the King of Romans, nor exhibit or suffer to be exhibited to him any right, obe-

dience,

dience, tribute, rent, or any other revenue, by what name soever it may be called; but reserve the said duties, for a profitable and idoneous King of Romans, hereafter to be substituted by Gods gracious assistance.

In assurance and testimony of all which things, We John *Archbishop of* Mentz, *have caused this present Instrument to be made by the subscribed Notaries, in this patent forme, and our great Seale to be affixed thereunto. This premised sentence was read and pronounced by us* John *Archbishop of* Mentz, *in our name, and the names of the Lords, Cœlectors before remembred, under the Castle* Lonstein *at the* Rhene, *in the Dioceſſe of* Triers, *reaching towards* Brubachium, *out of a publike Throne, erected for the use of a Tribunall, the Lords Coelectors sitting there in judgement, in the yeare of our Lords Incarnation,* 1400. *the eight indiction, on Saturday the twentieth day of the month of* August, *a little before the time of the Nones; in the eleventh yeare of the Papacy of our most holy Father and Lord in Christ, Lord* Boniface *the ninth, Pope, by divine providence; in the presence of the most illustrious Princes and Lords,* John, *sonne of the most illustrious Prince and Lord* Rupert, *Duke of* Bavaria *and* Count Palatine of Rheine, Fredericke Burgrave *of* Norimberge, *the Noble Philip Lord of* Nassau, *and* Sarbrucke, Emichon *of* Luringen, John *of* Zigenhaim, Cunrade Burgrave, *our* Canon *of* Mentz, Earles: Bernhard *of* Welterburg, John *of* Limpurge, Rinehard *of* Honowe, *Barons*: *Mr.* Nicholas Berwin of the sacred Page, John *of* Witenburg, *and* Nicholas Burgman, *of the Decrees*; *Mr.* Herman President of Saint Gerion of Colen, *Doctors of the Law*: *likewise the valiant Knight* Sigfride *of* Lindow, *our Vice-Commander in* Ringaugia; John Bossen *of* Waldeck, *our Buggrave* Beckelnheim; *and our trusty* Henry Rulman, of Dadenberg, Gerard of Emerberg, Lord in Lantscron, Fredericke *of* Sachenheim, Culman *of* Coneren, John *of* Dalburg, Rudolfe *of* Zeissikon, *as also many other Lords, Knights, and Gentlemen, spirituall and secular, standing by in great number, called and requested to the things above written.*

And I Nicholas Berchtoldi Fridberg, *Clerke, publike Notary of the Dioceſſe of* Mentz, *by Episcopall and Emperiall authority, and sworne Scribe of my foresaid most gracious Lord, Lord* John *Archbishop of* Mentz, *because at that time I was personally present when this sentence which we have fore-writ, was given and pronounced, together with the publike Notaries and witnesses commemorated, and saw and heard all these things to be done; therefore at the command and request of my foresaid most gracious Lord of* Mentz; *have reduced this publike instrument faithfully put in writing, into publike forme, and have subsigned and ratified it with my accustomed signe of Notariship, having likewise annexed the great Seale of my foresaid Lord of* Mentz, *in assurance and testimony of all the premises.*

The names of the Notaries are,

Nicholaus Berchtoldi Fridburgensis.
Joannes Meier junior Gasterveldensis.
Conradus a Leibern, Clericus, Padebornensis diœcesis.
Henricus Stalberg Rotenburgensis.
Tilmannus a Homberg.
Conradus Coler Zustenensis, Colonienſis diœcesis.

Finally,

Finally, it is evident; *that the Nobles, Magistrates, Parliament, and representative body of the people, or some part of them in default of the rest, may lawfully take up defensive armes to resist their Princes, endeavouring to abrogate the Law of God, to waste the Church, and extirpate the true Religion setled among them by the Lawes, and usher in Idolatry,* And, *that in such a case as this, neighbour Princes and States lawfully may, yea and ought in point of conscience, to aide the Subjects of other Princes, afflicted for the cause of pure Religion professed by them, or oppressed by open Tyranny.*

These propositions are largely and professedly debated by *Junius Brutus* in his *Vindiciæ contra Tyrannos: quæst.* 1. 2. *&* 4. throughout, in the Treatise intituled *De Jure Magistratus in Subditos*, spent wholly in this Theame. *Georgius Obrectus: Disput. Jurid. de Principiis Belli. Num.* 125. *to* 199. by *Vasquius. Contr. Illustr.* 36. *n.* 30. and elsewhere, by *Albericus Gentilis*, and sundry others forecited: I shall onely fortifie the later part thereof, with the observation of the * Duke of *Rhoan*, who acquaints us; *that it is, and hath beene of later yeares the very true interest, honour, and greatnesse of the Kings and Queenes of* England, *both in point of policy and Religion, to protect and assist with armes all Princes of the Reformed Protestant Religion, in* France, Germany, *and other parts; as it is the true interest of the Kings of* Spaine, *to protect and releeve all oppressed or grieved Roman Catholicks under the Dominion of other Princes: and that their honour, safety, and greatnesse principally consists in the observation and maintenance of this their interest*: and with the words of *Junius Brutus*; who thus states and debates the Question.

* Interest of Princes.

Vindiciæ contr. Tyrannos, qu. 4. *p* 207. *&c.*

An Jure possint, aut debeant Vicini Principes auxilium ferre aliorum principum Subditis, religionis causa afflictis, aut manifesta tyrannide oppressis?

In defining this question (saith he) there is more need of conscience, then science, which would be altogether idle, if charity obtained its place in this world. But because as the manners of the times are now, there is nothing more deare or rare a-
c mong men, then charity it selfe, we thinke meete briefely to discusse it. The Ty-
c rants as well of soules as bodies; as well of the Church as Common-wealth or
c Realme, may be restrained, expelled, and punished by the people. Both these we
c have already proved by reasons. But, because such is the fraud of Tyrants, or such
c the simplicity of subjects for the most part; that they are scarce known before that
c they have spoyled; or these scarce thinke of their safety, till they have almost pe-
c rished, and are reduced into those straits, out of which they cannot get out with
c their owne forces, so as they are compelled to implore the aide of other; it is
c questioned, *Whether they defending the cause of Religion or of the Common-wealth, of the*
c *Kingdome of Christ, or of their owne Kingdome, other Christian Princes may lawfully as-*
c *sist them*? And truly many, whiles they have hoped to increase their wealth by ay-
c ding the afflicted, have presently judged it to be lawfull. For thus the *Romans, A-*
c *lexander* the great, and many others, under pretext of suppressing Tyrants, have
c frequently enlarged their Dominions: and not long since we have seene *Henry* the
c second, King of *France*, to have made warre with the Emperour *Charles* the fifth:
c and that under pretext of succouring and defending the Princes of the Empire, and
c of the Protestants too; as also *Henry* the eighth, King of *England*, was ready to
c aide the Protestants in *Germany*, to make worke for *Charles* the fifth: But if any
c danger may be feared from thence, or little gaine may be expected, then verily they
c must heare most Princes disputing, whether it be lawfull or no? And as those un-

der

'der a pretext of piety, did cover either ambition or gaine; so these pretend justice
'for their sloathfulnesse; when as verily neither did piety exhort them, which
'seekes onely the good of others, nor yet justice ought to dehort those, which looks
'wholly abroad, and is as it were, shut out of its owne doores. Therefore, discharg-
'ging both these, let us see first in the cause of Religion, what true piety, and what
'true justice may perswade. First, let it be agreed, that there is but one Church,
'whose head is Christ, and whose members so cohere and agree among themselves,
'that none of them; even the smallest can suffer violence or hurt, but the rest are
'hurt and suffer griefe, as the whole Scripture teacheth. Therefore the Church is
'compared to a body. Now the body is oft-times affected not onely with
'the hurt of the arme, or legge, but even of the very the least finger, or perisheth
'with its wound. Therefore in vaine may any one boast, that he is cordially affected
'with the safety of the body, who when he may defend the whole, yet suffers it to
'be torne and mangled limb after limb. It is compared to a building: Now, where
'mines are made against any part of the building, the whole building oft-times fals
'downe to the ground; and the flame which invades any part thereof endangers
'the whole. Therefore he should be ridiculous, who because he dwels in the cellar
'perchance, should delay to drive the flame from the top of the house: He should
'be scarce in his wits, who would not prevent mines with countermines, because
'they are made against this wall, not against that. It is also compared to a Ship:
'Now the whole Ship is endangered together, the whole perisheth together: There-
'fore those are equally safe who are in the fore part, as those who are in the puppe;
'those who are in keel, as safe as those in the shrouds, if the storme rage: when ve-
'rily even in the common proveb, those who are conversant in the same danger, are
'said to be in the same Ship: These things laid downe, verily he who is not moved
'with its griefe, burning, tossing, is not of that body, is not accounted of the fa-
'mily of Christ, hath no place in the Arke. Yet he who is but a little moved,
'ought no more to doubt, whether he ought to aide the afflicted members of the
'Church, then whether he may helpe himselfe, since in the Church all are one; but
'rather every one is bound in his place to afford his helpe and assistance to them; and
'so much the more helpe, by how much the more riches he hath received from
'God, not so much to be possessed, as expended.

'This Church as it is but one, so likewise it is universally and intirely commit-
'ted, commended to all Christian Princes severally: For because it had beene dan-
'gerous to commit the whole Church to any one; and to commit the severall parts
'thereof to particular persons, had beene clearely contrary to its unity; God hath
'committed all of it to every of them, and its particular parts to any of them: Not
'yet so, as that they should onely defend it; but also, that they should have a care
'to propagate it, as much as they are able. Therefore if the Prince of the Coun-
'trey, takes care of one part thereof, perchance the German or English; but yet
'deserts and neglects the other oppressed part, if he be able to relieve it; he is judg-
'ed to have deserted the Church, since the spouse of Christ verily is but one, which
'he ought to defend and protect with all his might, lest it should be violated or
'corrupted any where. The instauration of this universall Church as private men
'are bound to promote with bended knees, so Magistrates, I say, are obliged to doe
'it with their feet, hands, and all their strength. Neither is the *Ephesian* Church

'one, the *Coloſſian* auother, and the reſt; but all theſe particular Churches are parts
'of the univerſall; now the univerſall is the Kingdome of Chriſt, which all pri-
'vate men ought to deſire; but Kings, Princes, Magiſtrates, are bound to amplifie,
'dilate, defend, and propagate every where, and againſt all whomſoever. Therefore
'among the Jewes there was one onely Temple built by *Solomon*, which repreſented
'the unity of the Church. Now he ſhould be a ridiculous Churchwarden, and to
'be puniſhed, who ſhould take care onely to preſerve one part ſafe and ſound, but
'ſuffer the reſt to fall to decay; likewiſe all Chriſtian Kings when they are inaugu-
'rated, receive a ſword, of purpoſe to defend the Catholike or univerſall Church;
'which taking into their hand, they point out all the quarters of the world, and
'brandiſh it towards the Eaſt, Weſt, South and North, leſt any part thereof ſhould
'be thought excepted. Since then they receive the protection of the Church in
'this manner, without doubt they underſtand the true, not falſe Church. There-
2 Chron. c. 31. 'fore they ought to doe their endeavour to defend, and to reſtore intirely, that
'Church, which they profeſſe to be true and pure. Now that thus it was obſerved
'by pious Princes, examples may teach us. In the time of *Hezekiah* King of *Ju-*
'*dah*, the Kingdome of *Iſrael* was long before enthralled to the King of *Aſſyria*, to
'wit, from the time of King *Hoſhea*: therefore if that Church of God onely which
'is in the Kingdome of *Judah*, and not alſo the univerſall, had beene committed to
'*Hezekiah*; and if the bounds of the Realmes had been to be kept in defending the
'Church, in the ſame manner as they are in impoſing tribute; without doubt *Heze-*
'*kiah*, eſpecially at that ſeaſon wherein the Aſſyrians enjoyed the Empire of the
'world, would have contained himſelfe: But we ſee that he invited by poſts all *Iſ-*
'*rael*, the ſubjects, I ſay, of the King of *Aſſyria*, to celebrate the paſſeover in *Jeruſa-*
'*lem*; and moreover that the godly in *Iſrael* helped them in pulling downe the high
'places, even in the territories of *Ephraim*, *Manaſſes*, and the reſt. So likewiſe we
'read that King *Joſiah*, a moſt godly Prince, purged not onely his owne Kingdome,
2 King 22. 'but the *Realme* of *Iſrael* likewiſe, then wholly ſubject to the King of *Aſſyria*, from
2 Chron. 34. 6. 'the worſhip of Idols. Verily where the glory of God, where the Kingdome of
7. & 35. 'Chriſt are in queſtion, no limits, no bounds, no railes ought to exclude or keepe off
'the zeale of pious Princes. But if peradventure ſome greater feare hangs over their
'heads, they may remember by the example of theſe, that thoſe who truly feare
'the Lord, can feare no man. Theſe examples of pious Princes, ſince the time that
'the Church, which was firſt circumſcribed in *Paleſtina*, hath beene ſpread over all
'the world, many Chriſtian Princes have followed: *Conſtantine* and *Licinius* were
'both Emperours, he of the Eaſt, this of the Weſt: they were likewiſe colleagues
'endued with equall power: Now it is known, what is commonly ſpoken; That
'one equall hath no Empire over another equall: Yet notwithſtanding *Conſtantine*
'made warre with *Licinius*: who being vexed, ſlew the Chriſtians, and among them
'many of the Nobles, either for the cauſe, or for the pretext of Religion; by force
'obtaines free profeſſion of Religion for the Chriſtians; and finally breaking his
'faith, and reverting to his priſtine cruelty, he commanded him to be put to death
'at *Theſſalonica*. This I ſay did *Conſtantine* the great, whoſe piety is ſo much cele-
'brated by the Divines of that age, that ſome of them will have that ſpoken of
'him, written in the Prophet *Eſay*; *That Kings ſhould become nurſing fathers and Pa-*
'*ſtors of the Church*. He being dead, the Roman Empire was divided between both his
'ſonnes

'ſonnes by equall right, no prerogative being annexed to either of them. Of them, 'Conſtans foſtered the Orthodox, Conſtantius the elder, the Arrians; and he verily 'expelled Athanaſius the enemy of the Arrians, out of Alexandria. Truly, if any 'rules of bounds ought to have beene kept, it ought to have beene betweene bre-'thren: Yet in the meane time Conſtans threatned his brother, if he reſtored not 'Athanaſius; being ready to doe it by force, unleſſe Conſtantius had ſpeedily reſto-'red him intirely; Now if ſo be he doubted not to doe this, onely for the reſto-'ring of one Biſhop, might he not much more juſtly doe it, where ſome part of the 'people is oppreſſed, when they implore aſſiſtance, when they deſire to defend their 'Religion by the Nobles approbation? So likewiſe Theodoſius, by the perſvaſion 'of Biſhop Atticus undertook a warre againſt Choſroes King of Perſia, that he might Sozom. l. 7. c. 18
'releeve the Chriſtians perſecuted for Religion ſake, although they were truly privat 'men, which ſurely thoſe moſt juſt Princes, who enacted ſo many Lawes, and who 'had ſo great a care of Law, had never done, if they had imagined, that by this their 'Act others territories and the Lawes of Nations had beene violated. Yea, to what 'end were ſo many expeditions of Chriſtian Princes into Syria againſt the Saracens; 'to what end were thoſe Saladinian Diſmes ſo oft impoſed; to what end ſo many 'ſociall warres againſt the Turkes, ſo many Croſſadoes indicted againſt them, if it 'be not lawfull for any Chriſtian Princes, even the moſt remote, to free the Church 'from Tyranny, and Chriſtian captives from the yoke of bondage? Now with 'what arguments were they impelled to the warre, with what reaſons were they ur-'ged? unleſſe theſe, that the Church was one? that Chriſt called all whatſoever from 'all quarters to this ſervice? that common dangers were to be repulſed with com-'mon armes? all which likewiſe doe plainely ſuite with this our cauſe. Now and 'if this were lawfull for them againſt Mahomet; yea, not onely lawfull, but like-'wiſe as a reward was appointed to the induſtrious, ſo a puniſhment both to the 'ſloathfull, and delayers; why not alſo againſt the enemy of Chriſt? If I ſay, a-'gainſt the Græcians beſieging our Troy; why not alſo againſt Simon the incendiary? 'Finally, if it be a pious act to free Chriſtians from bodily ſervitude, (for the 'Turkes compell no man to it) is it not much more ſo, to manumit the ſoules of 'miſerable men, and to reſtore them to liberty? And verily theſe ſo many examples 'of pious Princes may be inſteed of a Law. But now heare what God himſelfe by 'the mouth of his Prophets doth every where threaten againſt thoſe, who promote 'not the inſtauration of the Church, or neglect its affliction. The Gadites, Reu-'benites, and halfe Tribe of Manaſſes, deſire of Moſes that their portion might be Numb. 32.
'given to them and their families on this ſide Jordan: and Moſes truly gave it them; Joſh. 4. 7 12.
'but with this Law and condition; that they ſhould not onely helpe their brethren, Deut. 3. 20.
'the other Iſraelites, in conquering the Land of Canaan, but, becauſe they had firſt 'obtained their portion, that they ſhould goe before them, and be placed in the 'forefront of them: Which if they ſhould not doe, he accurſeth them, ſmites them 'with anathema, and compares them to thoſe who had beene judged Rebels at 'Cadesbernea: For what? ſaith he, ſhall your brethren goe to warre, and you in 'the meane time ſit ſtill here? But rather you ſhall paſſe over Jordan, neither ſhall 'you returne againe hither to your houſes before that God hath expelled his ene-'mies from before his face, and given reſt to your brethren, as he hath given un-'o 'you: Then verily you ſhall be innocent before the Lord of Iſrael; verily thoſe on

'when the great and good God hath bestowed so great a benefit, unlesse they assisted
'their Brethren, unlesse they were companions of their labours, unlesse they went
'before them, should without doubt receive most grievous punishments.

Judg.5. 'Likewise, when under the conduct of *Deborah*, those of *Nephthali* and *Zebulon* had
'taken up armes against the Tyrant *Jabin*, and in the meane time the Tribe of *Reu-*
'*ben*, which ought to be first in Armes, delighted themselves with the Pipes among
'the Pastures of the flockes, *Dan* boasted of the Empire of the Sea, *Asher* finally tru-
'sted in the asperity of Mountaines, all of them are most expresly condemned by the
'Spirit of God, speaking by the Propheteſſe; Curse ye *Meroz*, saith the Angel of
'the Lord, curse ye bitterly the Inhabitants thereof, because they came not to the
2 Sam.11. 11. 'helpe of the Lord against the mighty. But blessed above women shall *Jael* the Wife
'of *Heber* the *Kenite* be, who (although she might have pleaded a truce with the hea-
'thens) yet notwithstanding shee slew *Sisera*, the Captaine of the enemies Hoast.
'Therefore piously spake *Vriah*, The Arke, and *Israel*, and *Judah* abide in tents, and
'oft times passe the night without sleepe in the open fields; shall I then feast with my
'Wife, eate, drinke, and follow my pleasures? As the Lord liveth, I will never doe
Amos 8. 'this. Contrarily the Princes of *Israel* did impiously, who trusting in the difficulty
'of the mountaines of *Samaria*, and in the munition of *Sion*, flowed with luxury,
'feasted, dranke, slept on beds of Ivory, anoynted their heads; but in the meane time
'wonderfully despised contrite, cruciated, afflicted *Joseph*, neither were any way mo-
'ved with his affliction. Therefore saith the Lord of Hoasts, I abhorre the excel-
'lency of *Jacob*, and hate his palaces; I have sworne by my soule that I will deliver
'up the City; and all that is therein, yea, these who so greatly rioted shall soone
'goe with the first into captivity. Impiously also did the *Ephramites*, who did not
Judg.8.& 12. 'onely not gratulate *Gideon* and *Jephtha*, attaining the victory and triumphing, but
'likewise envyed them, though yet they deserted them when they were in danger.
'Likewise the *Israelites*, who when *David* reigned, cryed out; saying: Behold we
2 Sam. 5. 'are thy flesh and thy bones; when he was reduced into straites, said: We have no
'part in *David*, nor in the Sonne of *Jesse*. Impiously doe all those Christians one-
'ly in name, who will communicate in the sacred feasts of the Church, and yet will
'not so much as taste the cup of bitternesse with their Brethren, who seeke salva-
'tion in the Church, and yet take no care for the salvation and safety of the Church
'and of its Members. Finally, they acknowledge one Father, God; one Family,
'the Church; professe themselves to be one body in Christ; yet neither yeeld any
'aide to Christ afflicted in his Members, or bestow their wealth on him being poore.
Numb. 31. 'What thinke we shall be the future punishment of their impiety? *Moses* compares
'the deserters of their Brethren, to the Rebels at *Kadesbarnea*: now none of those
'by Gods owne decree, entred into *Canaan*. Therefore they can seeke no place for
'themselves in the cœlestiall *Canaan*, who assist not Christ most miserably crucified,
'and dying a thousand times every day, and implores as it were their helpe from
'doore to doore. Christ himselfe condemnes those to eternall fire, who harboured
'him not when he was a stranger, who fostered him not when he was a cold, who
Matth.25. 'cloathed him not when he was naked, who relieved him not when he was poore,
'who freed him not when he was captive. Therefore they ought to know, that
'eternall fire is prepared for them, who passe him by with a deafe eare daily, suffe-
'ring such things, as though in the meane time they may seeme to worke great mi-

racles;

'racles; and therefore verily it shall be easier for certaine infidels, than for them; 'For what doe the Jewes, the Scribes and Pharisees properly crucifie Christ? Doe 'the Ethnickes, Turkes, finally some Christians, persecute, crucifie, vex Christ in 'his Members? The Jewes professe and beleeve him an Impostor; the Ethnickes a 'malefactor; the Turkes an Infidell; others an Heretique. Therefore if they con-'sider the minde of them all, from whom we commonly measure the crime, they all 'seeme to persecute noxious, impious men deserving punishment, not properly to 'slay Christ; But they onely doe truely prosecute, truely slay him, who willingly 'suffer him whom they professe their Messiah, Redeemer, God, to be tortured and 'crucified in his Members, when they might hinder it. In summe; he who deli-'vers him not from death, when he may, is equally guilty with him that slayes 'him: For because he would not helpe him, he willed he should be slaine; Now in 'a crime the will it selfe ought to be regarded. But certainly, the murther especiall-'ly of Christian Princes, who helpe not those who are persecuted for Religion, is 'so much the more grievous, by how much the more they slay, whom they might 'set free, and by how much it is more wicked to slay a brother, than any other per-'son. A wickednesse more horrid than that of the Tyrants themselves; by how 'much it is worse to slay a good, just, pious, innocent man, than a Theefe, impostor, 'sorcerer, Hereticke; more flagitious to assault God, than any man: and finally, by 'how much perfidiousnesse in an equall fact exceeds ignorance.

Augustin Psal. 82. Ambr. Li. de Offic. Gratian in Decret.

'But whether shall it be lawfull to determine the same of those, who give no as-'sistance to those who are oppressed with Tyranny, or defend the Republicke against 'Tyranny? since a reason cannot be given of so straite an alliance, of so strict a Co-'venant; when as, I say, we doe not here discourse of the Church, which is but 'one of all men; which being one and universall, is committed to every one; But 'of the Republicke, which may be different from that of others; and being diffe-'rent, is committed severally to others? A Neighbour, saith Christ, is not a Jew 'to a Jew onely, but to a Samaritan, and to any man. Now we ought to love our 'Neighbours as our selves. Therefore a Jew, if he would discharge his duty, is bound 'to deliver from a theefe, if he be able, not a Jew onely, but likewise every stranger, 'yea likewise one unknowne. Neither will any one dispute, whether it be just to 'defend himselfe; seeing verily it is more just to defend another than himselfe in this 'respect, wherein things are more just, which meere charity doth, than those which 'either anger, or revenge, or other perturbation of the minde doe: and no man 'holds a meane in revenging his owne injuries; but in other mens, although more 'grievous, even the most immoderate may hold a meane. But we may learne from 'the heathens themselves, what humane society, and what the common nature of 'all men require of us in this thing. For *Cicero* saith, there is one nature of all men; 'that even nature it selfe prescribes this, that a man ought to take care of a man, 'who ever he be, even for this very cause, that he is a man. If otherwise, all hu-'mane consociation must necessarily be dissolved. Therefore, as there are two foun-'dations of justice: first, that no hurt be done to any; next, that the profit of 'all, if it may be done, be advanced: So also there are two kinds of injustice; one 'of those who offer injury; the other of those who propulse not wrong from 'those to whom it is offered, if they be able. For he who doth unjustly against any 'one, incited either by anger, or other perturbation, he seemes as it were to offer

Cicero Li 1 & 3. Offic.

'violent hands to his companion; but he who doth not defend, or reſiſt an injury
'if he can, is as much in fault, as if he deſerted either his Parents, or Friends, or
'Country. So that what the one doth, anger is judged to doe, which is reputed
'a ſhort fury; what the other, an evill minde truely, which is a perpetuall tyran-
'ny. And however his fury may be excuſed, the others deſtinated counſell can by
'no meanes be excuſed. Thou wilt ſay, I feare that while I repulſe an injury from
'him, I ſhould doe an injury to the other. Yea verily, thou wilt cover thine injuſtice
'with a pretext of Juſtice; Whereas if thou conſulteſt with thy ſelfe, not juſtice
'moves thee to deſert thy duty, but rather ſome other cauſe. For, as he ſaith in
'another place, either thou wilt not undertake enmities, or labour, or coſt; or elſe
'thou art ſo hindered with negligence, ſloathfulneſſe, idleneſſe, or with thy ſtudies,
'or certaine imployments, that thou ſuffereſt thoſe to be deſerted, whom thou
'oughteſt to protect. But while thou ſayeſt, thou doſt thine owne buſineſſe, leſt
'thou mighteſt ſeeme to doe wrong to any, thou runneſt into another kinde of in-
'juſtice. For thou deſerteſt the ſociety of life, becauſe thou beſtoweſt on it nothing
'of thy ſtudy, nothing of thy paines, nothing of thy goods. Theſe things Eth-
Diodor. Sic. l. 2. c. 2. 'nickes, Philoſophers, and Politicians hold, truely more piouſly than many Chri-
'ſtians in this age. Hence a neighbour is bound by the Lawes of the *Romans*, to
'take away a ſervant from a cruell Maſter. But among the *Ægyptians*, he who had
'caſually found a man to be beaten by Theeves, or to ſuffer any injury, and had not
'reſcued him, if he could, was guilty of death: if not, hee was bound to accuſe
'the Theeves before the Magiſtrate: Which if he had neglected, he was beaten with
'a certaine number of ſtripes, and puniſhed with a three dayes faſt. Now if this
'verily be lawfull in one neighbour towards another, yea, lyeth upon him out of
'duty to aſſiſt every one he meets againſt a Theefe; ſhall it not be much more lawfull
'to a good Prince, not onely to ayde and patronize ſervants againſt a raging Ma-
'ſter, or children againſt a furious Father; but a Kingdome againſt a Tyrant, a
'Republike againſt the private luſt of one man; a people, a Lord, I ſay, againſt a
'publike ſervant and agent? Yea, verily, if he ſhall neglect it, ſhall not he merit
Thucyd. l. 2. 'the name and puniſhments of a Tyrant, as the other of a theefe? Hence *Thucy-
dides ſaith, *Not onely thoſe are tyrants who reduce others into ſervitude, but much rather thoſe
who when they may repulſe that violence, take no care to doe it: but eſpecially thoſe who will
be called the defenders of Greece and the Common Country, but yet helpe not their oppreſſed Coun-*
'*try*: and rightly; for a Tyrant is in a ſort compelled to retaine violently the Ty-
'ranny which he hath violently invaded; becauſe, as *Tyberius* ſaid, he ſeemeth
'to hold a Wolfe by the eares, which he cannot retaine without force, nor yet let
'goe without danger. Therefore that he may extinguiſh one crime with another,
'hee commits many wickedneſſes, and is compelled to injure others, leſt he ſhould
'be injurious to himſelfe. But that Prince who idlely beholds the wickedneſſes of
'a tyrant, and the ruine of the blood of innocents which he may hinder, becauſe
'he doth as it were take pleaſure in the gladiatory ſport, is by ſo much more crimi-
'nous than the Tyrant, as he who ſets ſword-players to fight, is guiltier than the
'man-ſlaying Gladiator; as much as hee who ſlayes a man for pleaſure ſake, is
Object. 'more criminous than he who doth it by conſtraint, or out of feare or neceſſity. If
'ſome oppoſe; But it is a fault for any to intermeddle with, or thruſt himſelfe into
Anſw. 'anothers buſineſſe: *Terentian Chremes* may anſwer; I am a man, I thinke no

humane

humane thing strange unto me. If others (that they may seeke lurking holes for their impiety) obiect; that there are distinct limits, distinct iurisdictions; now it is not lawfull to thrust a sickle into anothers Corne: Neither truely do I advise, that by this pretence thou shouldest invade anothers territories, usurpe anothers iurisdiction to thy selfe, draw thy neighbours corne into thine owne floore, which most doe under this pretext. I doe not say, that by the example of that arbitrator, of whom *Cicero*, thou thy selfe shouldest iudge the thing controverted to thy selfe; but rather that thou shouldest restraine a Prince invading the Kingdome of Christ, containe a tyrant within his limits, stretch out an helping hand to an afflicted people, and a prostrated Commonweale; But thou must do it in such sort, that thou mayest not looke after thine owne profit, but the good of humane society altogether. For since Iustice wholly lookes abroad, injustice onely regards it selfe, thou shalt at last doe this iustly, if thou shalt have no regard of thine owne profits. Briefely, if a Prince violently passeth over the fixed limits of piety and iustice, a neighbour may piously and justly leape over his limits, not that he should invade anothers, but that he should bid him be content with his owne: yea, he shall be impious and unjust, if he neglect it. If a Prince exercise tyranny over the people, he may no lesse, or lesse slackly assist them, than him, if the people should move sedition: yea, he ought to doe it the more readily, by how much it is more miserable, that many suffer, than one. If *Porsena* reduce *Tarquin* the proud to *Rome*, much more justly may *Constantine*, sent for by the people and Senate of *Rome*, expell *Maxentius* the Tyrant out of the City. Finally, if a man may become a Wolfe to a man, nothing truely forbids, but that a man may be a God to a man, as it is in the Proverbe. Therefore antiquity hath enrolled *Hercules* among the number of the gods, because he punished and tamed *Procrustes*, *Busyris*, and other Tyrants, (the pests of mankinde, and monsters of the world) in every place. So also the *Roman* Empire, as long as it stood free, was often called, *The Patrocinie against the Robberies of Tyrants*, because the Senate was the haven and refuge of Kings, People, Nations. So *Constantine* sent for by the *Romans* against *Maxentius* the Tyrant, had God the Captaine of his Army, whose expedition the Universall Church exalted with powerfull prayses; when yet *Maxentius* had the same authority in the West, as *Constantine* in the East. Likewise *Charles* the Great, undertooke a Warre against the *Lombardes*, being called by the Nobles of *Italy* to their aide, when as yet the Kingdome of the *Lombards* was long before established, and he could claime no right to himselfe over them. Likewise, when *Charles* the Bald King of *France*, had by Tyranny taken away the President of that Country, which lyeth betweene *Seine* and *Liger*, Duke *Lambert*, and *Iamesius*, and the other Nobles of *France* had fled to *Lewis* King of *Germany*, *Charles* his Brother by another mother, to crave aide against *Charles* and his mother *Judith*, a most wicked Woman: He in a most ample Assembly of the *Germane* Princes, heard these suppliants, by whose unanimous Counsell, a warre was publickely decreed against *Charles*, for to restore the exiles. Finally, as there have beene some Tyrants in every place, so likewise among all Historians there are every where examples extant, of tyranny revenged, and people defended by neighbour Princes; which the Princes now at this day ought to imitate, in curbing the tyrants both of bodies and Soules of the Republicke, and of the Church of Christ, unlesse they themselves will be named Tyrants,

Vespasian. Pogg. Iur. Leg. 36.

Cic. 2. Offic.

Cic. lib. 2. Offic.

Ioan. Avent. in Annal. Boiorum.

by

ᶜ by a moſt deſerved right. And (that we may at laſt conclude this Treatiſe in one ᶜ word) piety commands the Law of God to be obſerved, and the Church to be ᶜ defended juſtice, that Tyrants and the ſubverters of Law and the Republike ſhould ᶜ be curbed; charity, that the oppreſſed ſhould be releeved, and have a helping ᶜ hand extended. But thoſe who take away theſe things, take away piety, juſtice, ᶜ charity from among men, and deſire them to be altogether extinguiſhed. ᶜ So he:

If this then be an irrefragable verity, that forraine States and Princes are ſo farre obliged to aſſiſt and relieve thoſe of the ſame Religion, and all others whoſe liberties, rights, priviledges, are forcibly invaded *(which our Parliament and State by their aſſiſtance, if the Netherlands and other Proteſtant States, both in Quaene *Elizabeths*, King *James*, and King *Charles* his reigne, approved and juſtified both by words, Acts of Parliament, and reall performances) then certainly thoſe of the ſelf-ſame Church, Nation, Kingdom, and fellow Subjects, under the ſelf-ſame Prince, betweene whom there is a farre nearer relation, much ſtricter obligation, and more ſtrong ingagements, ought mutually to aide and aſſiſt each other to the uttermoſt of their abilities, when their Religion, Lawes, Liberties, be violently invaded, their deareſt native Countrey waſted, ſacked, plundered, burned, ruined, in a hoſtile warre-like manner, with open force of Armes, either by the King himſelfe, or a prevailing Malignant Popiſh faction, who have ſurreptitiouſly poſſeſſed themſelves both of his perſon and affections which they have gotten into their owne over-ruling power. How much then it now concernes every reall Proteſtant within this Realme of *England*, and all other his Majeſties Dominions to unite all their common forces together, unanimouſly to protect, defend, maintaine, and propagate our eſtabliſhed reformed Religion, fundamentall Lawes, Liberties, the very Priviledges of Parliaments, their eſtates, liberties, lives, the peace, welfare, and common good of their deareſt native Countrey, and our three united Realmes againſt all Popiſh Malignant forces now in armes to invade, eclipſe, impaire, ſubvert, ſacke, ruine them; and how monſtrouſly, unnaturally, unchriſtianly, and deteſtably impious, treacherous, perfidious, all thoſe Engliſh, Iriſh, and Scottiſh Proteſtants proclaime themſelves to the preſent and future age, who now trayterouſly joyne their forces with the Malignant Popiſh party, or prove uncordiall, falſe, treacherous, and perfidious to their Religion, Liberties, Countrey, and the Parliament (who have not onely waged, imployed, but confided in them) and contribute their uttermoſt endeavours to betray, enſlave, undermine, and to ſacke, burne, and totally overturne them (as many we finde have done to their eternall infamy) I here referre to every mans judgement and conſcience ſeriouſly to determine. Certainly ſuch unnaturall monſters, ſuch trayterous Judaſſes, ſuch execrable infamous Apoſtates as theſe, can expect no other reall remuneration of this their treachery and perfidiouſneſſe, but the ruine of their credits, the deteſtation of their perſons, memories; the confiſcation of their eſtates, the extirpation of their families, the execrations of all good men, the ſevereſt judgements of God, and utter confuſion with horrors of conſcience tormenting them conſtantly day and night, while they continue languiſhing under all theſe miſeries here, and the ſharpeſt torments, the very largeſt dangers, the hotteſt flames in hell for ever hereafter: and thoſe Antichriſtian Papiſts who now are and have beene ſo faithfull, active, zealous, courag-

* See *Speed* & *Cambdens* Hiſtory of Queen *Eliz. Meterinus* and *Grimſtons* Hiſtories of the Netherlands. The Noble Acts of Prince *Maurice* of *Naſſau*, and the Bils of Subſidies in Qu. *Eliz.* King *James*, & King *Charles* his reigne.

couragious, induſtrious, liberall, bountifull, if not prodigall to proſecute their owne intereſts, deſignes to maintaine and propagate their falſe, erroneous, deteſtable Religion, ſuperſtitions, idolatries, both in *England* and *Ireland* with the effuſion of their bloud, expence, and forfeiture of all their eſtates, and never yet deſerted, or became treacherous to their falſe execrable cauſe or Religion in the leaſt degree, ſhall all joyntly riſe up in judgement againſt them, both here and hereafter, to their ſempiternall infamy, reproach, and moſt juſt condemnation. O conſider this all yee who now ſo much forget, neglect, betray both your God, your Chriſt, Religion, Lawes, Liberties, Countrey, Parliament, yea your very ſelves, your ſoules, bodies, eſtates, poſterities; Conſider with your ſelves the *bitter curſe* denounced by God himſelfe againſt *Meroz*, *Judg*.5.23. Conſider the fatall, diſmall end of *treacherous Judas*, *Matth*. 27.3.4,5. *Acts* 1.18.19,20. Conſider that dreadfull ſpeech of our Saviour Chriſt, *Marke* 8.35.36,37,38. *Whoſoever will ſave his life ſhall loſe it, but whoſoever ſhall loſe his life for my ſake and the Goſpels ſhall ſave it. For what ſhall it profit a man if he ſhall gaine the whole world and loſe his owne ſoule? or what ſhall a man give in exchange for his ſoule? Whoſoever therefore ſhall be aſhamed of me and of my word, in this adulterous and ſinfull generation; of him alſo ſhall the ſonne of man be aſhamed when he commeth in the glory of his Father, with the holy Angels.* * *If we ſuffer with him, we ſhall alſo reigne with him; if we deny him, he will alſo deny us*: If we be but *fearfull* in the cauſe of Chriſt, *we ſhall be ſure to have our part in the lake that burneth with fire and brimſtone*, *Rev*. 21.8. O what then will be our portion, if we be unzealous, negligent, perfidious to it, or profeſſed enemies (eſpecially in open armes) againſt it, when it cries out to us for our neceſſary aſſiſtance every where? If *Jeſus Chriſt will render tribulation to them which doe but trouble his people; yea, and ſhall be very ſhortly revealed from Heaven, with his mighty Angels, in flaming fire, taking vengeance on all them that (onely) know not God, and that obey not the Goſpel of Jeſus Chriſt, who ſhall be puniſhed with everlaſting deſtruction from the preſence of the Lord, and from the glory of his power*, 2 *Theſ*. 1.6. *to* 10. *O where ſhall all thoſe ungodly ſinners, Rebels, and Traytors appeare*, who now every where murther, plunder, perſecute, extirpare Gods deareſt Saints; and not onely refuſe to owne, but even deſert, betray the cauſe of God and their Countrey? who refuſe not onely cordially to maintaine the very truth of God, the Goſpel of Chriſt, which themſelves in ſhew not onely pretend to know, but profeſſe; but alſo joyn with Papiſts, and Malignants openly to fight againſt, and totally to ſuppreſſe it? Certainly if judgement ſhall beginne at the houſe of God it ſelfe, as now it doth, and if the righteous w[illegible] defend the cauſe of God and the Kingdome ſhall ſcarcely be ſaved, what theſe m[illegible] dreadfull end, and judgement at laſt ſhall be, tranſcends my thoughts to conce[illegible] my expreſſions to relate; all I can ſay is this, it will be ſo ſuperlatively miſerab[illegible] grievous, that an eternity of incomprehenſible torments will onely be able to [illegible] demonſtrate the infinity and execrableneſſe of their ſinne. O then let all of all ſor[illegible] conſider ſeriouſly of this, and all the premiſes, and the Lord give them underſtan[illegible] grace to keepe a good conſcience, and diſcharge their ſeverall truſts and bo[illegible] duties faithfully, cheerefully to their God, Religion, King, Countrey, and the Pa[illegible] in all things, that ſo they may enjoy the honour, comfort, beneſit, of all [illegible] endeavours to defend, promote, propagate our Religion, Lawes, [illegible] Liberties, and the publike welfare

* 2 Tim. 2.12.

fare here; and the Crowne, the full guerdon of them hereafter; and poore bleeding, dying *England* and *Ireland* may now at last attaine that speedy, holy, lasting, honourable, blessed peace and unity, which all good men cordially pray for and endeavour; which doubtlesse had beene easily effected long ere this, had we all beene faithfull, true, reall to the publike cause of God and our Country in our severall places, and not faithlessely betrayed, but sincerely discharged the severall trusts reposed in us to the uttermost of our powers. The readiest meanes to re-establish and perpetuate our pristine tranquillity: which I humbly beseech the God and Prince of peace effectually to accomplish in his owne due season, before our whole three Realmes become a desolate Wildernesse, an *Aceldama*, a *Golgotha*, as many places of them are already, and more like to be, if the extraordinary mercy of our ever-gracious God, prevent not the mischievous long plotted conspiracies, malice, rage, treachery, of unnaturall, and deceitfull men:

FINIS.

This Oath should have come in the *Appendix*, page 73. line. 17.

The Oath of CHARLES, King of *Navarre* at his Coronation, *An.* 1390. recorded in the generall History of *Spaine*, l. 17. p. 625. 626.

VVE D. CHARLES *by the grace of God, King of* Navarre, &c. *doe sweare unto our people of* Navarre *upon the holy Evangelists touched by us, and to the Prelates and rich men of the Cities and good Townes, and to all the people of* Navarre, *for all your Rights, Lawes, Customes, Freedomes, Liberties, and Privileges, that every one of them as they are, shall be maintained and kept to you and your successors, all the time of Our life without corrupting them; bettering, and not impairing them, in all, or in part: and that the violence and force which hath beene done to your Predecessors, whom God pardon, and to you by Us, or Our Officers, We shall hereafter command it to cease, and satisfaction to be made according unto right as they shall be made manifest by good men of credit.* After which the Deputies of the State swore, in their owne names, and for all the Realme; *faithfully to guard and defend the Kings person, and their Countrey; and to aide him, to keepe, defend, and maintaine the Lawes and Customes, with all their power.*

Errata, and Omissions in some Copies.

Part. 4. p. 1. l. 26. *it, is*, p. 9. l. 39. c. 33. p. 27. l. 13. private, *publike*, p. 28. l. 7. *other* 31. *pugna*.

Appendix p. 2. l. 3. *parallel*, p. 4. l. 14 them, *the people*, l. 34 & p. 5. l. 29. *Maximus*, p. 8. l. *Politicus*, p. 39. l. 26. dele, *in the*, p. 41. l. 41. *other*, p. 44. l. 40 *retired*, p. 50. l. 44. *the hand*, p. *Cara*, *Lara*, p. 55. l. 41. *Pauensis*, p. 59. l. 27. dele *the*, p. 66. l. 34 *yeares*, p. 79. l. 12. dele *etc*, l. 3. p. 9. l. 2. adde 2 Chron. 22. 1. *And the inhabitants of* Jerusalem *made* Ahaziah *his youngest* in his *stead*, l. 18. confirmed, p. 145. l. 2. *not from it to*, p. 147. l. 20 *in some sence in private* l. 23. *pernicies*, p. 153. l. 14. *Gauarvius*, p. 162. l. 7. received, *renued*, p. 162. l. 28 *Hotomanus*, p. 166. l. 38. *Vindiciæ*, p. 163. l. 2. *revocable*, l. 3 *Historicall*, l. 19. *Cuiacius*, l. 23. *usufructuary*, l. 3. *calla*, p. 170. l. 14. to, *doe*, l. 41. 2. *secun. qu.* dele *to*, l. 21. foundations, p. 167. l. 7. *is an*, p. 169. l. 25., l. 15. *rapacitates*, p. 174. l. 4. *if, it*. p. 1. l. 22. *in Law*, p. 172. l. 27. *fealty to*, p. 173. l. 8. *adjuratorily resist*, p. 187. l. 2. so, *to*, p. 190. l. 3 l. 15. *preserue*, l. 32. *and*, l. 35. *goods*, p. 186. l. 15. 6. p. 193. l. 1. *converseth*, p. 196. l. 33. *lesse*.

In the Margin. p. 42. l. 2. l. 1. Arnnales, Gil. p. 168. l. 19. , p. 60. l. 4. *Leges*, l. 9. *Aimoin*. l. 2. *Jure*, p. 85. l. 2. 850. p. 152.

Part 1. p. 12. l 15. third. read, *secon*. *privatæue*, p. 56. l. 16. *reputing them*, p. . l. 44. *through*, p. 45. l. 24. l. 3. p. 48. l. 15. *Britannia*, l. 26. *merius* l. 3. 8 *Albericus*. *responsum*, p. 93. l. 38. *Duardus*, p. 100. l. 33. *Ray*

Part 2. p. 59. l. 3. *perfidum*.

Part 3. p. 143. l. 29. naturall, *nationall*.

Bantam

John Sloan his booke